

HAYS AREA PLANNING COMMISSION MEETING AGENDA
CITY COMMISSION CHAMBERS
1507 MAIN, HAYS, KS
NOVEMBER 16, 2015
6:30 P.M.

1. **CALL TO ORDER BY CHAIRMAN.**

2. **CONSENT AGENDA.**

A. Minutes of the meeting of October 19, 2015

3. **PRESENTATION BY FIRE CHIEF GARY BROWN**

A. Brief Presentation by Fire Chief, Gary Brown on Narrow Streets and Cul De Sacs and their Impacts on Fire Service Response

4. **PUBLIC HEARING ITEMS – None**

5. **NON-PUBLIC HEARING ITEMS.**

A. Update and Discussion of Zoning Regulations

Action: None

B. Planning Commission Training (On-line training from the Lincoln Institute of Land Policy)

Action: None

6. **OFF AGENDA ITEMS/COMMUNICATIONS.**

A. City Commission action and planning and development updates on Planning Commission related issues

7. **ADJOURNMENT**

Any person with a disability and needing special accommodations to attend this meeting should contact the Planning, Inspection and Enforcement office (785-628-7310) 48 hours prior to the scheduled meeting time. Every attempt will be made to accommodate any requests for assistance.

**DRAFT
HAYS AREA PLANNING COMMISSION
CITY HALL IN COMMISSION CHAMBERS
OCTOBER 19, 2015
MINUTES
6:30 P.M.**

1. CALL TO ORDER BY CHAIRMAN: The Hays Area Planning Commission met at the regularly scheduled meeting on Monday, October 19, 2015 at 6:30 p.m. in Commission Chambers at City Hall. Chairman Paul Phillips declared that a quorum was present and called the meeting to order.

Roll Call:

Present

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

Absent

Justin McClung

City Staff in attendance: Toby Dougherty, City Manager, Greg Sund, Director of Public Works, John Braun, Assistant Director of Public Works, Jesse Rohr, Superintendent and Linda Bixenman, Administrative Assistant of Planning, Inspection and Enforcement.

2. CONSENT AGENDA:

A. Minutes: Matthew Wheeler moved, Chris Crawford seconded the motion to approve the minutes from the September 21, 2015 meeting. There were no additions or corrections to those minutes.

AYES:

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

3. STRONG TOWNS:

This agenda item on "Strong Towns" was moved to the end.

4. PUBLIC HEARING ITEMS:

A. Public Hearing for a rezoning request for a tract of land located at 1517 Commerce Parkway from "A-L" Agriculture to "I-1" Light Industrial Zoning District.

(Case # 15-04Z): Paul Phillips informed the audience and the commission, that per the Kansas Open Meetings Act, that the first part of the public hearing would be a public hearing for the rezoning request. The second part of the public hearing would be closed for the commission members to discuss the issues relative to the request among themselves. At that time, the commission will approve or disapprove Staff Findings of Fact and the second motion would be a substantive motion of their recommendation to the governing body.

Jesse Rohr presented the information on the above rezoning request with the Staff Findings of Fact in a power point presentation on the overhead visual. The property is located along Commerce Parkway north of 13th Street between the residential dwelling to the north and business park to the south.

The reason for the rezoning request is to broaden the scope of potential uses of the property.

The zoning districts surrounding the property are as follows:

- East - "A-L" Agriculture Zoning District
- North - "A-L" Agriculture Zoning District
- South - "B-P" Business Park
- West - "A-L" Agriculture

The consent to annex has been submitted and will go before the City Commission at the same time as the rezoning request.

The infrastructure is in place. There was a lot split to separate the vacant lot from the residential tract.

The property is designated as "Business Park" on the Future Land use Map of the Comprehensive Plan; although this zoning classification will be absorbed into "I-1" Light Industrial zoning classification with the rewrite of the zoning and subdivision regulations.

He explained the options:

1. Recommend approval to the City Commission

2. Deny rezoning request if it does not meet the criteria

Based on Staff Findings of Fact, staff recommends approval of the rezoning request and a favorable recommendation to be forwarded to the city commission.

Paul Phillips asked if there was anyone in the audience for comments. There were none.

Paul Phillips closed the public hearing. He entertained a motion on Staff Findings of Fact.

Chris Crawford moved, Lou Caplan seconded the motion to approve Staff Findings of Fact.

AYES:

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

Paul Phillips entertained a substantive motion and explained for them to include the factors to be considered as justification for this rezoning request. He read the 8 factors to be considered for a rezoning request.

Robert Readle moved, Tom Denning seconded the motion to recommend to the City Commission to approve the rezoning request of the property at 1517 Commerce Parkway from "A-L" Agriculture to "I-1" Light Industrial based on the factor for consideration it is consistent with the character of the neighborhood.

AYES:

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

B. Public Hearing for a rezoning request from the proposed Blue Sky Acres Addition located on a tract in the SE/4 of Section 16, Township 14 South, Range 18 West of the 6th p.m. (250th Avenue west of VonFeldt's Addition) from "A-L" Agriculture to "R-S" Residential Suburban Zoning District. (Case # 15-05Z):

Paul Phillips informed the audience and the commission, that per the Kansas Open Meetings Act, that the first part of the public hearing would be a public hearing for the rezoning request. The second part of the public hearing would be closed for the commission members to discuss the issues relative to the request among themselves. At that time, the commission will approve or disapprove Staff Findings of Fact and the second motion would be a substantive motion of their recommendation to the governing body.

Jesse Rohr introduced the case and presented Staff Findings of Fact. The property is within the three mile planning area of Hays and there is no intention of annexation. It is located approximately 2 miles south of Hays on U. S. Highway 183. The proposed development would set behind the VonFeldt Subdivision that was platted in 1977 consisting of 7 residences that front a frontage road that fronts U.S. Highway 183.

The reason for the rezoning request is to develop a residential development of six lots.

Some of the considerations are:

1. There is no public water source available including rural water. There are concerns how additional water wells may affect the current water levels particularly the affect to the existing residential properties.
2. The Staff of Ellis County Public Works are resistant to add more county roads that will require ongoing maintenance. The developer proposed that the roads would be private and maintained by a Homeowners Association and be built to county standards. The construction of roads to county standards should be a stipulation.
3. Ellis County Rural Fire has expressed concern for adequate structure fire protection for residential subdivisions since the only water available is what they carry on the truck. It eased their concern somewhat with having the larger lots.
4. There are conflicts with the proposed access road identified as Randall Lane. The existing access drive appears to cross private property and does not line up with the lane and there is a power pole in the middle of the lane. Access to the U.S. 183 from the development would be determined by the Kansas Department of Transportation.
5. If the development is approved, what would be next. Are there too many there now. It is a different mindset now.
6. There is a concern from those living nearby what impact additional septic systems in close proximity would pose on the water quality, particularly the water serving the existing homes and proposed water wells.

7. The Comprehensive Plan denotes this area for agriculture land uses; infringement of urbanism should be discouraged. Extremely low residential densities (one unit per 20 acres) may be permitted.

He explained the options for their motion:

1. Recommend against a favorable recommendation to go to the City Commission for the rezoning request as submitted. The preliminary plat hinges on if there is a change of zoning so it will not go forward unless a rezoning is approved.
2. Recommend approval of the rezoning request
3. Table the request if additional information is presented or if additional information is required to make an informed decision.

Staff cannot favorably recommend this development to move forward due to the items mentioned and it is not in conformance with the Comprehensive Plan.

The following residents came before the Planning Commission to voice their concerns on the rezoning request:

Bryan Church, 1039 250th Avenue, explained that his house is the northern most house adjacent to proposed development. He purchased this property because he loved to see the crops grow and cattle grow. He noted that the some of the residents concern was they would not be able to see the sunrise and sunset. He voiced the following concerns about the proposed development.

1. Safety for his children
2. What would this do to the investment of his home
3. Traffic flow – the existing access road crosses his property and would feed the development – KDOT stated that the access road would not have to be changed with six new lots; although that would be reevaluated if there is too much wear and tear.
4. Traffic Hazard at the access to U.S. Highway 183
5. Concern for the safety and supply of the drinking water
6. Concern for expansion of the development
7. Drainage impact - Surface change will change the amount of drainage.
8. Increased traffic
9. How will the lots be maintained until the they are sold
10. There will be 17 acres of new lawns that will affect the water source.
11. Floodplain Elevation
12. Traffic Flow increase
13. New Road surface width
14. Per his research on county regulations, there shall not be private streets platted in any subdivision.
15. To the north of the power pole in the middle of Randall Lane is the Nex-Tech Fiber Optic line with box and A T & T phone box.

He addressed Tom Denning's comments from the last meeting regarding that most of the county is served by private water wells. Per the Kansas Water Resources Office source, it makes a difference in durability of water supply when the wells are within ½ mile of each other. Per a water well company source, there is a narrow aquifer along U.S. 183 Highway that tapers off to the east and west.

If there were any changes with the road, the Kansas Department of Transportation would take out both drives and one lane constructed.

Paul Phillips asked if he would be in favor to see the entrance road changed. Bryan Church answered that he would like to see the entrance road changed; although he has no problems with the access by the current neighbors.

Darrell Hamlin asked if they would be afraid of flooding because of the drainage issue. Mr. Church explained that the north ditch empties into his front yard. They have a French Drain that handles most of the water; although it may not be able to handle an increase in water.

Tom Denning asked if the entrance drive (Randall Lane) was moved over to the south if the water would run directly to the ditch. Mr. Church pointed to his property shown on the overhead visual to note that there would need to be a culvert. He would have to access Randall Lane to his property.

James Hartman, 1027 250th Avenue (Southern most house), stated that he had the same concerns as Bryan Church. He moved to this location because of the open space for his family. His concern was that his water well could go dry and if his property value would go down. His main issue was drainage since it already comes within 10 feet of his house. The drainage from the fields to the subdivision drains to his property and Mr. Church's property.

Paul Phillips asked what steps they would take should their water well go dry now. James Hartman answered that they would see about rural water or haul water in.

Kevin Parker, 1033 250th Avenue (middle of subdivision) stated that his concerns were no different then the neighbors. They invested a lot in their home when they moved to this location. His main concern was that his water well would go dry. There is no place to drill for water and the uncertainty of rural water, and if so it would take time and a lot of dollars to get there. The elevation of the subdivision is lower than the field behind them and the water drains to the north and south. Another concern is sewer saturation because of the close proximity of the homes that they take precautions to prevent.

Terry Krannawitter, 1037 250th Avenue (2nd house from the north), stated that he and his wife had the same concerns as his neighbors. He explained that his driveway was at an angle because his house does not set straight with the street and if Randall Lane was built further south they would have to back out onto that

Lane. He said that he and his wife are concerned about contamination of ground water, access to the highway and what type of road and who would maintain the road. He asked who would be responsible for payment of the curb and gutter if this was the kind of road that was proposed.

Chris Crawford asked the size of his lot. Mr. Krannawitter answered that it would be 1.9 acres. He stated that the boundary would be 10 feet from this building. He noted that he and Bryan Church keep Randall Lane mowed and trimmed.

Chris Crawford asked if they had any concern of groundwater contamination. Mr. Krannawitter answered that they had their water checked about 6 months ago and it came back fine; although it is always a concern. Adding 6 more houses increases the chance of contamination and if one property has the problem they would all have a problem.

Bryan Church added that when he purchased his property, the water had to be treated before it changed hands. Chris Crawford asked what it was treated for. It was unknown.

Arthur Herzog, 1031 250th Avenue, stated that they were the last to build in the subdivision and their home was built high enough to be built out of the floodplain; although his garage was not built out of the floodplain. His concern was if the south drive was eliminated what affect it would have on the wear and tear of the frontage road and the inconvenience. He was concerned if the potential development would raise their property taxes.

Chris Crawford asked if the county maintained the frontage road. Arthur Herzog answered that the county comes through once in a while.

Mary Alice Unrein, owner and developer, explained that she had submitted documentation to the Planning Commission referenced below to address the above concerns.

The roads would be maintained by a homeowners association and she would see to it that the roads were kept up.

She said that the representative of the Kansas Department of Transportation provided a letter stating that the Midwest Energy pole in the middle of Randall Lane would not be required to be moved for six residences.

She presented an application for water service with the Rural Water District No 2. It would be good to have that opportunity to sign up for rural water in case one of the wells fail whether she gets this development or not.

She said that a letter of information provided by Pfannenstiel Water Well Service explained the facts of the probability of sustainable water.

She said that the Ellis County Environmental Office provided a letter stating that deciding on the larger lots was a better solution to the wastewater/water issues discussed earlier. The county gave her the specifications to meet the standards of a county road.

She said that because the 2 ½ and 3 acre lots, the homes would not block the sunrise or sunset. A lot of people like to move out to the country.

Sylvia Krannawitter, 1037 250th Avenue, stated that she has the same concerns as her neighbors. They have lived at their residence for 15 years and for the first time last spring they had water in the basement. When it rains, Bryan Church's residence (1039 250th) has water in the back yard. The water drainage issue would have to be addressed. She emphasized that the developer would have to look at longevity for the development and sustainability of water etc.

There is the concern of traffic issues with entering U.S. 183 Highway particularly when there is backed up traffic like when the traffic consists of trucks hauling wide loads.

She explained that they had a corner of their property in the flood plain that was surveyed out of the floodplain. They were told that when the highway was built up it was shifted over slightly.

Also when work is being done in the area, there is no postal service during that time.

Toby Dougherty, City Manager, came before the commission to expand on city staff findings of fact and their recommendation. He acknowledged that Ms Unrein makes a good cause and the property owners next door make a valid concern why they do not want it developed.

He explained that this request is a perfect illustration of the direction we are trying to move as city staff. From a city perspective it goes beyond stormwater drainage, water, sewer etc. Where does it stop of the hamlet developments that are impossible for the city to grow into without having to bring infrastructure up to code. He pointed out on the map all the hamlet developments within the 3 mile zone. In the past there may not have been as much deliberation because of just looking at a small picture when we need to look at the big picture.

One of the findings of fact is that water is a big issue and rural water is undersized and expensive. How does this have ramifications in the future.

He explained to the Planning Commission you can control what you can control and the decisions you make will have ramifications for the future to the rest of the 3 mile planning area.

He used the example of the location of the Hays Medical Center if there would have been small housing subdivisions instead.

Bryan Church explained that the Kansas State Agriculture Research owned the land between this development and the city and will be hard to get out of the states hands to develop in their direction.

Lou Caplan asked for the areas of floodplain in the subdivision.

Becky Herzog, 1031 250th Avenue, handed out a map of the floodplain within the subdivision.

Paul Phillips read the Section 71-1311 (Procedure for rezoning requests). Jesse Rohr explained they would follow that procedure and emphasized the importance of staying in conformance with the Comprehensive Plan.

Tom Denning pointed out it was not reasonable that there would be contiguous development from the city to this subdivision because of the state owned ground in between.

Darrell Hamlin noted that it is of record that the rural fire response would not have enough water on their trucks to provide fire protection for all the homes. Tom Denning explained that the homes were in closer proximity in the existing subdivision than they would be in the proposed development.

Paul Phillips reminded the commission that this was a consideration of a rezoning and not the plat at this time.

Matthew Wheeler voiced concern of how the Homeowners Association would collect enough money for road maintenance, animal control, stop signs, etc. and if it is reasonable to expect someone to do it.

He acknowledged that he was in favor of free enterprise, and this case is the most difficult personally; although this issue goes against what they were educated on the way the city is to be developed to the future. He pointed out to be careful of their considerations.

He explained there would be less resistance if the development was for 10 acre hobby farms. Paul Phillips pointed out that with that type of development, it would not require a rezoning.

Darrell Hamlin pointed out that as a commissioner what he would note is what the record will show is there is significant resistance from the residents that already live there. There is resistance of this from city staff and some long term concerns because that is what rezoning request is that opens things up to the future.

He acknowledged the deepest respect for the plans and commitments that are made by the applicant but this would probably go beyond the applicant in the long term.

Paul Phillips closed the public hearing. He entertained a motion on staff findings of fact.

Darrell Hamlin moved , Matthew Wheeler seconded the motion to approve staff findings of fact.

AYES:

Paul Phillips
Lou Caplan
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

NAY:

Tom Denning

Paul Phillips entertained a substantive motion and explained for them to include the factors to be considered as justification for this rezoning request. He read the 8 factors to be considered for a rezoning request.

Matthew Wheeler moved, Chris Crawford seconded the motion to recommend to the City Commission to Deny the rezoning request of the proposed Blue Sky Acres from "A-L" Agriculture to "R-S" Residential Suburban on the consideration factor that it is not consistent with the adopted master plan.

AYES:

Paul Phillips
Lou Caplan
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

NAY:

Tom Denning

Paul Phillips explained to the audience that they will have the opportunity to attend the City Commission meeting for final action.

Matthew Wheeler informed the audience that the City Manager Toby Dougherty would be having a presentation on "Strong Towns" if they would like to stay for it.

5. NON-PUBLIC HEARING ITEMS:

A. Preliminary Plat of Blue Sky Acres Addition located on a tract of land in the SE/4 of Section 16, Township 14S, Range 18W (250th Street west of VonFeldt's Addition): This agenda item was tabled by consensus subject to the outcome of the rezoning.

B. Review Proposed changes to the Development Policy: John Braun, Assistant Director of Public Works, presented a power point presentation on the final draft form o the Development Policy. The intention is to take this to the November 19th City Commission work session if it is recommended for approval by the Planning Commission.

1. The City would not share for the over sizing of the infrastructure (water, sanitary sewer, stormwater, street and intersections).
2. Developer to pay equivalent cost of 8" line to tap into existing water or sewer mains.
3. Water lines less than 8" may be allowed by approval of Director of Utilities.
4. Waterlines at the end of cul de sacs shall be looped for water quality purposes
5. Alley shall be concrete if convey stormwater – No cost share by City
6. Listed the street pavement width requirements that includes the minimum street construction standards
7. Street Pavement subgrade requirements
8. Allowance for ditches in lieu of curb and gutter
9. Alleys designed as a means to convey stormwater should be made of concrete rather than a rock alley
10. Take out the option of a pre-annexation agreement for water and/or sewer. The property would be required to be annexed if they connect to city water and/or sewer and there is new language on annexation.
11. Added section on Hike and Bike Trails.
12. Sidewalks
14. An option to allow special assessment up to 20 years for benefit districts.
15. Project Closeout

Matthew Wheeler asked if it would be retroactive for those past developments to complete the sidewalks. John Braun answered that it would not be retroactive; although they are working on a way to address this.

Tom Denning voiced concern about the option of allowance for ditches in lieu of curb and gutter on how to enforce against parking along them, otherwise the road would not hold up and it would have a bad appearance. John Braun answered that it would be conducive to a particular type of development that would have to be approved by the Planning Commission.

Paul Phillips asked for the definition between a standard curb and layback curb. John Braun provided the information.

Chris Crawford asked if this would be required to go before a public hearing. He asked if this has been communicated to the developers, engineers etc. He asked how it was received by them. It was asked if it would come back before the commission at the time of adoption of the rewrite of the zoning and subdivision regulations.

John Braun answered that they have made it available to the developers, engineers etc and it has gone before the Utility Advisory Committee. The final draft will be available to them also.

It is not required to go before a public hearing. Staff solicited a recommendation from the Planning Commission to the City Commission. It will come back again before the commission at the time of the adoption of the rewrite of the zoning and subdivision regulations.

Paul Phillips entertained a motion to approve or disapprove the final form of the development policy.

Matthew Wheeler moved, Lou Caplan seconded the motion to recommend to the City Commission to approve the final draft of the Development Policy.

AYES:

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

C. Discussion of the Zoning and Subdivision Regulations: There was no discussion at this meeting.

3. STRONG TOWN PRESENTATION Toby Dougherty, City Manager, came before

the commission with a presentation on the "Strong Town" philosophy. He provided a hand out with his presentation called "A Stronger Hays". A marketing video will soon be posted to the city web page.

The findings on the economic investigation fiscal analysis from the staff retreat is the infrastructure is underfunded; the revenues for street maintenance are decreasing and there are requests for an increase in quality of life amenities. The current pattern of growth and development is not sustainable if changes are not made, otherwise there would be an increase in taxes or a decrease in services.

He explained they have replaced the general fund property tax levy with sales tax for the main source of income to keep the property tax down that created a disconnect between the drivers of growth and the revenues needed to support it. Most residential and some commercial developments do not generate enough revenue to cover the cost of services and maintaining infrastructure.

He stated that as the City Manager, he has to be fiscally responsible and ask the tough questions. There has to be an evaluation of the cost benefit ratio for the cost benefit perspective. He used a hypothetical development as an example.

He stated that the City is not against growth. The goal is that a development is to pay its way. He does not want to recommend a tax increase.

There are underutilized properties with infrastructure that exist in Hays.

Paul Phillips stated that he believed the growth from the residential properties should be factored in and it would bother him if they were not factored in. Families that reside in the residential areas generate sales tax.

Robert Readle concurred stating that is why commercial entities spring up is because there are families from the residences to support it.

Toby Dougherty stated that he would give that information to the preparer.

6. OFF AGENDA ITEMS/COMMUNICATIONS - None

7. ADJOURNMENT:

Lou Caplan moved, Matthew Wheeler seconded the motion to adjourn the meeting at 9:03 p.m.

AYES:

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler

Kris Munsch

6. ADJOURNMENT: Lou Caplan moved, Matthew Wheeler seconded the motion to adjourn the meeting at 9:03 p.m.

AYES:

Paul Phillips
Lou Caplan
Tom Denning
Robert Readle
Darrell Hamlin
Chris Crawford
Matthew Wheeler
Kris Munsch

Submitted by: Linda K. Bixenman, Administrative Assistant
Planning, Inspection and Enforcement

DRAFT