

**Haysville Planning Commission
Minutes
February 23, 2012**

Those members present were: Tim Aziere, Bob Conger, Michael Dunn, Jim Kates, Pamela Grether, Janet Parton, Don Schneider, Bob Wethington, and Linda Wiley.

Chairperson Aziere called the Haysville Planning Commission Meeting to order at 7:01 p.m. in the Council Chambers of the Haysville Municipal Building, 200 West Grand Avenue.

Aziere presented for approval the minutes of January 26, 2012.

Motion by Conger

Second by Parton

I move we approve the minutes as presented.

Aziere yea, Conger yea, Dunn yea, Grether yea, Kates yea, Parton yea, Schneider yea, Wethington yea, and Wiley yea.

Motion declared carried.

Under New Business Aziere presented a Consideration of Prairie Polo Addition Plat – Revised Preliminary.

Wiley excused herself from the discussion due to a conflict of interest.

Bob Kaplan, 1600 Epic Center, attorney for the applicant, addressed the Planning Commission and stated he believed the issue of the evening was the right-of-way dedication. Kaplan stated the sketch plan had been approved by the Planning Commission with a 40' dedication for possible improvements along Broadway. Kaplan stated they are now being asked to grant 50' and said he did not have authority from his client to grant that amount. Kaplan stated the right-of-way could be acquired later through eminent domain, with compensation for the acquisition. Kaplan said that if Planning Commission does not accept the 40' dedication, the applicant will withdraw and discontinue platting of the property. Kaplan stated the applicant did not need the property platted to continue with existing operations. Kaplan said he believes the 40' dedication complies with Haysville's Subdivision Regulations based on a 100' street right-of-way requirement, since the property on the other side of the street had given 60' of right-of-way. Kaplan stated nothing in the regulations stated the right-of-way had to be centered on the section line. Kaplan said he served on the Andover Planning Commission and he believed that they should take the 40' dedication and acquire the other 10' at a later date. Kaplan said he did not believe Broadway would be improved anytime in the near future. Kaplan stated the right-of-way would be much more expensive years from now when they would need to acquire it. Kaplan stated he understood that it might be desirable and it may be the intent of the regulations to have 50' on either side of the section line but the regulations do not say that; it says 100' right-of-way. Kaplan stated they may want to consider amending the regulations.

Schneider asked if the center of Broadway was on the section line. Tom Ruggles stated it was. Schneider stated there was a large amount of right-of-way on the west side of the street. Ruggles stated the improved portion was centered.

Morgan advised the Planning Commission to keep in mind, before suggesting any amendments to the regulations, the Subdivision Regulations allow for an increase or decrease in the amount of right-of-way Planning Commission can require.

Kaplan stated it was not his intention to say what they could or could not do based on the regulations, only how he reads the regulations to require right-of-way. Kaplan stated if he were on the Planning Commission he would accept the 40' dedication.

Aziere stated the sketch plan previously mentioned, as approved by the subdivision committee, shows a 50' dedication. Kaplan stated he was not aware of that. Aziere went on to clarify for the Commission that he and Wethington met as the Subdivision Committee and determined that their interpretation of the regulations were to require 50' right-of-way from the centerline of the street, an amount equal for property owners on either side of the street. Aziere stated the applicant and agents believed it should be a total street right-of-way of 100' and since the property owner on the other side had given a 60' dedication, the applicant and agents believed they were only required to dedicate 40'. Aziere explained the property adjacent to the north had dedicated 50' of right-of-way even though the property across the street had dedicated 60'.

Mike Dirck, 9141 York Lane, agent for the applicant, addressed the Planning Commission stated this started with a request to build a fence. Dirck stated he asked KDOT where they could build it and KDOT said it was fine. Dirck stated after their two conditional use permits and processes, Haysville was the first person who told him he would have to give right-of-way. Dirck stated the County didn't want right-of-way because it was too far out of their jurisdiction and KDOT said they didn't want it and the first time they heard of it was when Haysville requested the right-of-way.

Conger asked if the fence location was the issue with the right-of-way. Dirck stated the main concern was that someone was taking his (applicant's) developed land away from him. Aziere stated that subdivision regulations are nothing new. Dirck stated there is no agriculture zoning in Sedgwick County, only residential zoning. Dirck stated they weren't allowed to put any signs up on the property because of their zoning and that is why they wanted the Planning Unit Development (PUD).

Kaplan said this situation was unique because in most cases you need a plat to proceed with operations. Kaplan stated in this situation the applicant does not need a plat to continue operations and Planning Commission should take the 40' dedication. Schneiter stated they just finished the South Broadway Corridor Plan and that it would be 30 years before they will need to widen the road and said there is no need right now. Schneiter stated if the road ever widened on the centerline, you would be in people's porches. Schneiter said improvements and sidewalks could be done in 90'.

Parton asked if the PUD approval was contingent upon platting. Morgan stated that was correct and the property would revert back to the Conditional Use Permit (CUP).

Aziere advised the Planning Commission there was a memo from Sedgwick County with their comments stating: their requirements are 60' right-of-way; reduction to one access point along

95th Street South; submittal of drainage plan to Sedgwick County standards; and support of the 100' building setback along 95th Street South to accommodate future parkway improvements. Schneider stated he didn't understand why the County wanted so much right-of-way. Aziere explained the different widths required for improvements, considering things were centered. Aziere explained 30.5' was needed for the actual street (61' total back-of-curb) and 20' is the standard utility easement dedication considering that Westar typically asks for 6' on either side of the utility and the need to fit two possible gas companies, phone/cable/internet services, and water/wastewater services. Any sidewalk improvements or drainage ditches would be in addition to the 50.5' half street described. Tom Ruggles agreed with the measurements. Schneider stated they should be told why the right-of-way is needed and they have not been told. Schneider said it is always different explanations.

There was discussion about the building setback line and a decrease shown in the revised plat, not shown on previous submittals. Ruggles stated the 100' building setback should be shown from the existing property line, before right-of-way dedication and that was the explanation for reducing the setback along Broadway to 90'. Ruggles stated there was also some platter's text that allowed setback reductions along the KTA boundary to allow for a billboard.

There was discussion over the access control reduction, requested by Sedgwick County. The consensus was to keep the two access points but move the area of complete access control. There was discussion about how the decreased amount of right-of-way would impact property owners to the south of the property.

Linda Wiley, 720 E. 95th Street South, stated she didn't have a problem with a second access but asked that it be at least 100 feet from her property line. Wiley stated she would like to see some kind of landscaped buffer. Wiley said the fire department has asked to access back portions of the property, using her access and she felt an additional access point would increase safety.

Kates asked if they would be able to have signage if they didn't approve the plat. Morgan explained that the signage would be allowed through the PUD and if the plat was not approved they would revert back to the CUP that did not allow for signage. Morgan stated any existing signage would not be removed. Dirck stated the main reason for the PUD was that they could not have signage with the CUP. Dirck said they could not have restroom signs or parking signs and stated the sign they installed out front was not allowed. Schneider asked about the other uses allowable with the PUD. Aziere stated the PUD allowed for three additional buildings, alcohol sales, signage for advertising, and directional signage.

Motion by Schneider

Second by Dunn

I would move we approve this revised preliminary plat with the 40' street dedication and shifting the complete access control, except two openings, 100 feet to the west.

Aziere nay, Conger yea, Dunn yea, Kates yea, Grether yea, Parton nay, Schneider yea, and Wethington nay.

Wiley abstained.

Motion declared carried.

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There was no Correspondence or Informational Reading.

Aziere asked for Committee Updates.

Grether gave an update on the Historic Committee and announced the dates for Springnigans, Hometown Market, and Village Christmas.

There were no Off Agenda items.

Aziere asked for a motion for Adjournment.

Motion by Wethington

Second by Parton

To adjourn.

Aziere yea, Conger yea, Dunn yea, Kates yea, Grether yea, Parton yea, Schneiter yea, Wethington yea, and Wiley yea.

Motion declared carried.

The meeting of the Haysville Planning Commission adjourned at 8:06 p.m.