

SOUTH-CENTRAL CONSOLIDATED ZONING BOARD

County Administration Building
111 So. Cherry, Suite 1054
Olathe, Kansas 66061

MINUTES

Monday

February 14, 2005

6:30 P.M.

The South-Central Consolidated Zoning board was called to order at 6:30 P.M. by Chairman Bill Kiesling with the following members present: Dennis Bollin, Jim LasKares, Mike Patterson, and Ken Sanderson. Marvin Allen was absent.

STAFF PRESENT: Paul Greeley, Zoning Administrator; Jeff Malotte, Planner; and Helen Scott, Secretary for the Board.

AGENDA APPROVAL

Mr. Greeley said Item "B" on the agenda, Application No. SC-RLD-2560, Kim and Terry Thompson, has been continued until the March meeting.

With no other changes, the agenda was accepted as presented.

None of the board members reported any conflict of interest or external contacts/discussions.

APPROVAL OF MINUTES

MR. PATTERSON MADE A MOTION TO APPROVE THE MINUTES OF THE JANUARY 3, 2005, MEETING. MR. BOLLIN SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

BOARD REPORTS

A. Board of County Commissioners' Actions

Mr. Greeley said at last month's meeting the zoning board considered the Coffee Creek Estates final and preliminary plat at 179th & Ridgeview. He said the application was recommended for approval by the zoning board and also approved by the BOCC. He said Application No. SC-FDP-2542 is being reconsidered tonight from the January meeting.

B. Planning Commission Activities

No comments were made regarding Planning Commission Activities.

BUSINESS BEFORE THE BOARD

A. Reconsideration of Application No. SC-FDP-2542 – Final Plat – 183rd & Ridgeview Road.

Phelps Engineering, applicant, and John W. Meyers, Jr., landowners, are requesting Final Plat Approval for 11 residential lots on 38.32 acres, located at approximately 183rd & Ridgeview Road, to be known as Sycamore Springs Estates, 2nd Plat, in Section 25, Township 14, Range 23, zoned PRLD, Planned Residential Low Density District.

Staff Comments:

Mr. Greeley entered the February 4, 2005, memorandum into the record. He said the Board of County Commissioners on February 3, 2005, returned this application back to the zoning board for further discussion. There was no written directive provided with the return of this application but a transcript of the Commissioners' discussion has been provided. He said County Staff is still recommending that dry sewers be included in this project and there are a number of reasons why. According to the subdivision regulations, preliminary plat approval does not constitute final acceptance of the subdivision by the County. He said this is set out in black and white in the regulations and it's important in the zoning board's consideration tonight. Since 1999, preliminary plats expire 2 years after their approval by the BOCC, unless the BOCC makes a determination that the preliminary plat is in conformance with the current regulations. The purpose of the expiration provision is to avoid situations like the one before the zoning board tonight, where a preliminary plat is approved and the developer waits a number of years to do the final plat and then wants to follow the old standards on the final plat. According to the regulations, staff looks at each phase of a new subdivision and this involves not only dry sewers, but any other infrastructure requirements that may be new, subsequent to preliminary plat approval. Dry sewers are required on lots smaller than 7 acres and this subdivision meets that requirement because the lots are all less than 7 acres in size. The requirement of it being on an urban fringe policy area is also met by this subdivision. There are two options with respect to installing sewers; one is that if the subdivision is within ¼ mile of existing sewers then they shall connect to those sewers or if there aren't sewers within ¼ mile then a dry sewer system (either a low pressure system or a gravity system) is required. The regulations go on to say that the Chief Engineer and the Planning Director may both recommend waivers from this requirement; however, in this case both the Chief Engineer and the Planning Director have recommended that dry sewers be installed. He said Planning Staff believes that these are three important issues as to why dry sewers are required. He said Mr. Metzler would discuss a couple of reasons for why the Wastewater District is requiring dry sewers.

Comments from the Floor:

John Metzler, Wastewater District, said the dry sewer policy was adopted in February of 2002 and Number 4 of that policy describes one of the benefits of the policy. He said we can avoid the very costly and very difficult process of paying for a benefit district to provide sewers to a septic tank neighborhood. He said this is the mechanism we have always had for providing sewers to existing septic tank subdivisions. He said in his experience, half of the people want the sewers desperately because their septic tanks are failing and the other half

doesn't because they are not having any problems with their septic tank, or they have recently fixed it. Number 5 also describes some of the cost benefits. He said when we come into subdivisions and people want the County to put in sewers to take them off their septic tanks, typically the cost to install sewers is in the \$15,000 to \$20,000 per lot range, on a benefit district basis. Under a dry sewer plan, there is a \$5,000 dry sewer cost for the pressure mains and then each individual homeowner can decide when or if they want to connect, or not connect. Typically this costs about \$8,000 for the pump installation and \$5,000 for the dry sewer, for a total cost of \$13,000 versus \$15,000 to \$20,000. He said there is a very substantial cost benefit for installing dry sewers. Number 6 describes that all of the projects prior to 1992 were funded under the benefit district process and there were so many problems caused by litigation due to property owner distress over not understanding the process and the high cost associated with the benefit district process that the County actually went away from that for all of their projects, except for the septic tank neighborhood-type projects.

Chairman Kiesling said he read every word of the transcript of the BOCC meeting, which was somewhat confusing. The motion from the BOCC, by Commissioner Siegel, was to send the application back to the township zoning board with directions that they require the second phase to put in dry sewers. Farther into the meeting, Mr. Jarrett, County Attorney, indicated that if the zoning board hadn't said "don't require these", we wouldn't be sending the application back to the zoning board. Mr. Kiesling said his question is; why did the Commissioners send the application back. If you read the statutes, the Commissioners can either approve the application as recommended by the zoning board and if they make a different decision, it has to be by a 2/3 vote; or they can send the application back, with additional information for the zoning board to review. He said we don't have additional information and if he read the transcript correctly, there was probably 2/3 of the Commissioners who were not in favor of the dry sewers. There was a discussion in the transcript that the zoning board didn't have much discussion on the dry sewers. He said as he recalls, the zoning board had quite a bit of detailed discussion on dry sewers. There was a comment in the transcript that the zoning board had not been clear about their motion. Mr. Kiesling said the motion in the minutes reads as follows: "To recommend approval of the application with the stipulations listed in the November 29, 2004, memorandum and that a waiver be granted from the dry sewer requirements". He said the motion is pretty clear to him and he's questioning why the application came back to the zoning board and wasted the applicant's time. If the Commissioners had the votes, they should have went ahead and voted. He asked the other board members if they had any comments or opinions about this.

Mr. Sanderson said he thought the zoning board handled this application at last month's meeting. He said he realizes that we have some new Commissioners and that's probably why the application is back before the zoning board tonight.

Mr. Patterson said the situation should at been resolved by the Commissioners and not by the zoning board. The zoning board does not have the final decision.

Chairman Kiesling said the Commissioners didn't really have to agree with the zoning board and they had the votes to deny it if they wanted to. He said the zoning board does not have

any further information to discuss and he apologized to the applicants for them having to come back.

Ernie Ballweg, representing the applicant, said he would like to ask Mr. Metzler a couple of questions. He asked if this was the Wolf Creek Watershed and if there were any pending applications or petitions within the Wolf Creek Watershed.

Mr. Metzler passed out to everyone a copy of the Wolf Creek Watershed. He said a meeting is scheduled next month for the area called BR-26, which is in the Wolf Creek Watershed, and this meeting is the first step to form a petition for the creation of a sewer district. He said BR-25 is to the east of Highway 69 and south of 179th Street. These are two pending proposals for sewer districts in the Wolf Creek Watershed. Immediately to the west of BR-26, the pink area, is the area that is proposed to be annexed into the City of Overland Park. The City is considering annexation at this time and indications are from the City that it is likely to be approved, even though it's west of the gentleman's agreement of Pflumm Road. It's anticipated that those property owners will be seeking sewers as soon as they get annexed. He said there is a lot going on. This particular subdivision is not at the upstream end of the watershed and the spidering blue lines are future sewer lines that have been planned by the Wastewater Department. The lines were done in 1990 when Black and Vetch did the Blue River Watershed update. We also have the Coffee Creek Estates application, which was presented to the zoning board on the same night as Sycamore Springs, Phase 2. Sycamore Spring, Phase 2 was recommended with dry sewers and it is immediately to the south of Coffee Creek Estates. Mr. Metzler said the far northeast corner of Coffee Creek Estates may drain to the north but it's in the Wolf Creek Watershed. He said the map also show how close the City of Olathe is to this subdivision and in 1994 when Blue River 8, which is located immediately to the north of Blue River 12, was created, the city limits were around 151st Street, which is 3 miles north of where they are now. He said this was also an important consideration. There is also sewer activity in the watershed to the north, Coffee Creek, and almost all of the projects needed to complete the sewerage of that watershed are underway.

Mr. Ballweg asked where BR-26 was.

Mr. Metzler said it was west of Wolf Valley and East of Pflumm.

Chairman Kiesling asked Mr. Metzler if he said that BR-26 has submitted a request for a benefit district for sewers.

Mr. Metzler said these types of projects are not financed through a benefit district. He said an information meeting is the very first step in the sewer petitioning process. The three individuals who requested the meeting own about 51% of the land area and if after the informational meeting, they still wish to proceed, there is a high possibility that it will lead to creating a sewer district.

Chairman Kiesling said if the sewer district is created would it be created from Antioch to approximately Ridgeview.

Mr. Metzler said the district boundaries would be approximately what you see in the blue crossed hatched area, south of 179th Street. He said the tentative plan is to start at Highway 69, tunnel through the Arboretum and over to BR-26. The Arboretum is not heavily forested in the western half and only about ½ mile of tunneling is anticipated.

Chairman Kiesling asked what timeframe is anticipated.

Mr. Metzler said, conservatively, it might take 2 years to get a successful petition and the project itself would probably take about 4 years. He said he would be surprised if sewers weren't in this vicinity in 6 or 7 years.

Chairman Kiesling asked Mr. Metzler if he had any kind of a vision as to what the time period would be for the entire line to be put in.

Mr. Metzler said it depends upon development and interest. He said his projection is that the sewer, up through the first phase of Sycamore Springs would very likely occur within 15 years. The sewer is already half way there and Blue River 26, in six years, and it's not a stretch to think that within the subsequent 9 years that the second half is going to move forward. He said he would expect within 15 years to see sewers extended for that area.

Mr. Ballweg asked Mr. Metzler if he would agree that there are a lot of people who have information meetings and it doesn't go beyond that.

Mr. Metzler said they do have these types of situations and they are indicated by the gray areas on the map. He said the folks who requested this own a majority of the land in BR 26 and already have plans to annex into Overland Park. He said they appear to be pretty motivated and he would expect them to follow through.

Mr. Ballweg asked Mr. Metzler if he had any research, data, or test which would indicate whether or not dry sewers that have laid fallow for 15 or more years, would even function.

Mr. Metzler said most of the dry sewers have not laid fallow for 15 years so he could not actually answer that question. He said there is no reason to believe that dry sewers are not going to function, if they are in the ground for 15 years. There is not a whole lot that is going to happen to them in the ground. Dry low-pressure sewers are a different matter and the ones in Garnett Hills are going to become wet in about another 2 years. Those dry low-pressure sewers have been in the ground for about 3 or 4 years. He said before the sewers are connected, they will test them and if there are any leaks, they can be repaired. He said it's not the end of the world if someone drills a fence post through one of the lines because it can be found and addressed.

Mr. Ballweg said he figured out that if you took \$5,000 today at 5% interest, in 15 years you would spend nearly \$11,000, plus \$8,000 for a pump. Many of the septic systems that Mr. Metzler is talking about encountering problems are located in older subdivisions and on smaller lots than what we are talking about here. We now have a lot more quality installation

of septic tanks than we had 10 or 15 years ago. He said in theory, we are going to have a lot owner who has to pay a large amount of money for something that he may never get to use. He said this puts his client at an unfair economic advantage from that standpoint because another developer may have lots that are not dry sewerred and doesn't have to pay for something that will probably never be used. There was an informational meeting for sewers in Aubry Township but it never went anywhere and there is no guarantee that this informational meeting will go anywhere. There is no petition or proof that there will be sewers within 15 years and even if the area that Mr. Metzler is talking about is sewerred, it's down line from Sycamore Springs what they do in Sycamore Springs is not going to impede what a landowner might do down there. He said Commissioner Peterson seemed to be interested in some other thoughts about the likelihood of sewers being needed in 15 years. He said he would like to see some tests made because that's a lot of money to invest in some dry pipe in the ground that no one has figured out whether or not it is truly going to work in 15 years.

John Meyers said if this piece of ground was composed of rocks and clay, and had a lot of timber, he wouldn't say a word about it. He said this is really good, viable soil that will perk well and will handle everything with no problem. The property has been farmed for years and great crops have been raised on it. He said so far there have not been any problems with septic systems.

Mr. Ballweg said he talked to Mr. Palos after the BOCC meeting and Mr. Palos said he was in agreement with him but that there needed to be a moratorium on preliminary plats. He said two years is totally inadequate and it's not a fair amount of time.

Chairman Kiesling said he also talked to Mr. Palos and staff is going to re-evaluate that stipulation.

Discussion was held on the letter sent by staff stating that the final plat was in compliance with the preliminary plat and dry sewers were not mentioned.

Mr. Ballweg said the two-year issue had been ignored and staff had not thought about it. He said he wrote a letter to staff saying that they did not have the authority to impose dry sewers because this is a development plan approval process and staff is obligated to approve it and they can't change it. Staff said it was referred to as a development plan but since it's residential, it's treated as a final plat. Mr. Ballweg said in the process of staff trying to figure out a way for him to behave, they brought up the two-year stipulation.

MR. SANDERSON REINTERATED THE MOTION HE MADE LAST MONTH; TO RECOMMEND APPROVAL OF APPLICATION NO. SC-FDP-2542, WITH THE PREVIOUS STIPULATIONS, AND THAT A WAIVER BE GRANTED FROM THE DRY SEWER REQUIREMENT. MR. PATTERSON SECONDED THE MOTION. MOTION CARRIED BY UNANIMOUSLY.

Mr. Greeley said this application would be presented to the Board of County Commissioners on March 24, 2005, at 9:30 A.M. in the Commissioners' Hearing Room on the 3rd Floor of the County Administration Building at 111 So. Cherry in Olathe.

BUSINESS FROM THE FLOOR:

None

OLD BUSINESS:

None

NEW BUSINESS:

Chairman Kiesling said he would like to have a full zoning board and he talked to Commissioner Toplikar about being short one member. Discussion was held on the Southcentral boundaries and people who might be interested in serving on the board.

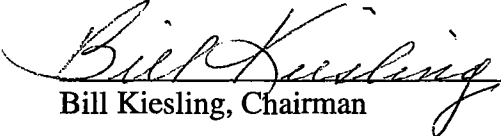
Mr. Greeley said he received a letter from the newly elected Spring Hill Township Trustee, resigning his position. He said it's possible that someone will be appointed to that position, and as part of that appointment, the individual has the right of serving on the zoning board.

Mr. Greeley introduced Jeff Malotte, a new planner for the County.

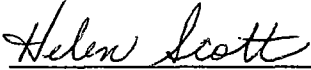
ADJOURNMENT:

MR. BOLLIN MADE A MOTION TO ADJOURN. MR. SANDERSON SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

The meeting was adjourned at 7:15 P.M.


Bill Kiesling, Chairman

ATTEST:


Helen Scott, Secretary for the Board