

SOUTH-CENTRAL CONSOLIDATED ZONING BOARD

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

MINUTES

Monday

May 2, 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, and Ken Sanderson. Marvin Allen and Mike Patterson were absent.

STAFF PRESENT: Diane Wicklund, Planner, and Helen Scott, Secretary for the Board.

AGENDA APPROVAL

The agenda was accepted as presented.

Before the start of tonight's meeting, Mr. LasKares stated that he would have to abstain from consideration of Application No. SC-RLD-2560. He said he lives within 1,000 ft. of the property and received a certified letter of notification.

Chairman Kiesling said he has talked with the applicant a couple of times about the application but feels that it would not have any reflection on him considering this application.

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

APPROVAL OF MINUTES

MR. SANDERSON MADE A MOTION TO APPROVE THE MINUTES OF THE MARCH 7, 2005, MEETING. MR. BOLLIN SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

BOARD REPORTS

A. Board of County Commissioners' Actions

Mrs. Wicklund said at the March meeting the zoning board recommended approval of a final plat for Sycamore Springs, 2nd Phase and the BOCC also recommended approval. She said the plat was approved without a requirement for dry sewers.

B. Planning Commission Activities

Mr. Sanderson presented an article from the Olathe paper which stated that not one City Planning Commissioner would support the Coffee Creek Area Plan because it has been changed so drastically to more of a conventional approach and because the Excise Tax was getting too excessive for the developers. He said Mr. Palos is trying to get the Olathe Planning Group to give the Planning Commission a presentation, once they are in a position to do that. He said the City of Olathe might be coming to the County for their blessing at some point or they may annex and do as they please. He said the City master planned the area, followed the creek, and did a lot of nice things but the reality for them was that the expense of doing all this was prohibitive or at least excessive from the developer's standpoint. The developers went back and redrafted the plan and now they can't get the redraft through and have spent about \$250,000 on the feasibility study and the design. Some of the developers have helped fund the project as well. He said it's going to happen but the question is "how does it happen".

Discussion was held on what areas the Coffee Creek Plan would cover, what areas have been annexed by the City of Overland Park, and the Excise Tax being as high as 35 cents a foot.

BUSINESS BEFORE THE BOARD

A. Reconsideration of Application No. SC-RLD-2560 – Rezoning – 17850 W. 191st Street.

Kim and Terry Thompson, applicant/landowners, are requesting rezoning of approximately 20 acres from RUR, Rural District to RLD, Residential Low Density District located in Section 31, Township 14, Range 24.

Staff Comments:

Chairman Kiesling said this application has been before the County Commissioners and sent back to the zoning board. He read as follows:

“The Board of County Commissioners request that the zoning board reconsider this application primarily because there were two zoning board members who were absent from the meeting and the Board of County Commissioners and the applicant would like full consideration of the application. Furthermore, the applicant has additional information to present to the zoning board”.

Chairman Kiesling asked that the zoning board not go through and “rehash” this application, but just discuss the new information. He asked for staff comments.

Mrs. Wicklund said this application has been before the BOCC and was sent back to the zoning board. The application has been continued at the zoning board level for 2 or 3 months for various reasons and hopefully a recommendation can be made tonight. Everyone should have a copy of the previous staff report and there is a copy of the flood plain map on display. She said staff's still recommends denial of the application for the reasons stated in the staff report dated November 29, 2004.

Mr. LasKares left the room because he received a property owner notification letter and lives within 1,000 feet of the applicant's property, which creates a conflict of interest. He will return to the room prior to the zoning board taking a vote, but will abstain.

Comments from the Floor:

Kim Thompson, applicant, said she attended a couple of planning meetings in Spring Hill where the City of Olathe, the City of Spring Hill, and the City of Overland Park presented facts about the growth that is happening in Spring Hill and the projected growth and annexation. She said they have made an agreement with their neighbor for a road easement and the Spring Hill School District is in the process of getting approval to build a new school at 199th & Ridgeview, which is about ½ mile from their property. Because of this, the City of Spring Hill is looking at tripling the size of its city limits. She talked about the City of Olathe and Spring Hill's projected plans for annexation, the Coffee Creek boundaries, and projected zoning for the area in which she lives. She said one of the reasons the application was denied last time was because they were "putting the cart before the horse" by asking for plat approval before the sewers and the road were in effect. She said rezoning and the plat is the first decision that needs to be made because if they can't get the rezoning and plat approved, then there would be no need to go any further with the plans for a road or bringing water to the property. She said she has met with Water District #1 and the County Engineer and has received a budget bid from both of them for estimates of cost for the road and bringing water into the area. Unless the rezoning and plat are approved, there will absolutely be no sense to endure that cost.

Brad Anson, representing the applicant, said he was a Councilman for the City of Gardner in the 80's and 90's and fully appreciates the need for long-range planning. He said he understands the process which the zoning board is trying to look at. Certainly the school is another element to consider in the overall area and the impact that's it's going to create. Typically, in most developments, the arterial roads are going to follow the section lines and quarter section lines. However, because the site distances are very poor at this location, it wouldn't be the optimum location for an arterial system without doing major renovation and cutting the hill down. He said from a topographic standpoint, it makes sense to have a drive or a road entrance where the applicants are proposing to put a road. He said there is an island of land to the north that is going to become landlocked unless you cross the creek at some point and access it. There are two ways to do this; one is to bring a road in from the west, along the section line, or come in from this direction. At some point the hill will probably be cut down, but whether they will cut the hill down that much, he doesn't know and there is already an existing house with a private drive. Putting a road in creates a lot of options for the County or the cities, whoever controls the property, because by pushing the road all the way through across the main water shed, which the applicant's are going to do at their own expense, will save the County money, long term. The road will be built to County standards and it will also intersect at the section line, which eventually will be pushed out through to the west to the next major road. This will complete a loop, which is a desirable road system affect when you look at arterial and collector roads. Another option would be to follow the normal procedure which is to try to follow the county line but that is actually a much more difficult traverse in crossing of the watershed and this is actually a better crossing. He said

they are going to be looking at putting in an RCV or whatever an engineer decides will be effective to handle the watershed. It would also facilitate the long term development of the property, which the neighbor is doing and they have had conversations with him. The neighbor is going to quick claim a 40 ft. wide strip which will allow the road to run right down the property division line and there will be 40 ft. of public right-of-way on either side to facilitate this roadway. The applicants are also proposing to put in a water line along the roadway which will be to County standards. He said this is a long-term development and the applicants just want to get the platting in place so that the road location and intersection will make sense for future development of his property and the property to the south as well. Developments need to make sense so that you don't get too many intersections along a road. He said from a practical standpoint, apart from any other considerations, it's his opinion that it makes sense to put a roadway here and also from a topographic standpoint and the utilization of property standpoint. All of the property to the north could be accessed without ever having to push the road all the way through across the floodplain. He said this is prime development land for the types of property that everyone seems to like, which is 2 to 5 acre tracts with larger houses. He said from a tax standpoint, it's better to have 4, 5, 6, or 7 lots as opposed to having one lot that remains in an agricultural classification.

Mr. Sanderson asked why the road is going in on the east side instead of on the west side where it would back up to the other piano key lots.

Mrs. Thompson said they were told by staff on several occasions that it made more sense to have the road on the east side of the property from an economic standpoint and because it would serve more property. There is 60 vacant acres to the east.

Mr. Anson said the property to the east is a very prime piece of ground and the applicants have already had discussions with their neighbor about their long-term desire to develop the property to the east. The road would provide access to the east as well as to the island up north. He said once the school is built, developers are going to be falling all over themselves to grab up every piece of property they can within a mile and a half radius of the school.

Mrs. Thompson said there are more than 6 pieces of property within ½ mile of her home that have sold in the last 5 or 6 months because of the pending things that are coming. On the corner of Ridgeview and 191st Street, 57 acres came up for sale and two days later it sold for 3.2 million dollars and they had 17 people bidding on the property. The area is set up for prime future development and we know it is coming; it's just a matter of time. She said they would like to have their plans laid out so that they know where they stood with their home and future plans before things are dictated for them.

Mr. Anson said staff has said that this is not the correct density and they wanted to see less density. If there is single-family housing of a higher density across the street, which will be coming soon, doesn't it make sense to have the density that the applicants are looking at across the street, which is a lower density than what we are going to have to the south. He said he is curious as to why staff is not looking at the application differently now that the school seems to be a reality.

Mr. Sanderson said one is sewerred and the other is not sewerred.

Chairman Kiesling said Coffee Creek is currently being constructed and Wolf Creek, which would serve this property, is probably going to go through within the next 5 years. They already had people who were interested in talking to the sewer district about putting a sewer line in.

Mrs. Thompson said she had a map of Johnson County Wastewater's Sewer Availability predictions and it says that by the year 2011 sewers are projected in that area. However, they are requesting 2 to 3 acre tracts because for they type of road they will be building, there needs to be 3 acres tracts. If they want to build a better arterial road, then they could go to 2 acres. She said all of the houses would be allowed septic systems, which is what everything in the area is at this point.

Mr. Anson said the Thompsons are looking at building their dream home and living on this property. He said if they could get their lot platted and get the road up to codes, they could begin construction on their dream home. They want to build on the 3rd lot and improve the road up to the creek. In the timeframe that they are looking at it's probably going to coincide with the sewers.

Chairman Kiesling said there is a list of reasons why staff has recommended denial and he would like to review that list.

The proposed zoning is not consistent with the surrounding zoning and land uses. Mr. Kiesling said we would be looking at future uses rather than existing uses and with the plan that the applicant has presented tonight from the City of Olathe, he is assuming that this area is going to be annexed by the City of Olathe. The City of Olathe shows this area as low density residential, which would be consistent with tonight's request.

The proposed zoning is not compatible with the rural character of the area. Mr. Kiesling said it may not be compatible today but the way things are going, it would be in the future.

There would be a threat to the public health, safety, or welfare if the zoning is approved. Mr. Kiesling said he does not remember what the staff's comments were on this.

Mrs. Wicklund said staff was primarily referring to the minimum infrastructure requirements; mainly the road, fire flow issues, and other things that have to be worked out prior to the platting process. She said the minimum infrastructure requirements are listed in the regulations and are items that staff has to look at when a property is rezoned.

Mr. Kiesling asked if the applicant was planning to improve 191st Street.

Mrs. Thompson said they are continuing to ask for a waiver from making improvements to 191st Street, but they are planning to pay for the installation of water lines sufficient to meet the fire flow requirements.

Discussion was held on the size of the water lines along 191st Street and along Ridgeview, the applicant's discussion with Norm Bowers about upgrading the roads, and that the driveway off 191st Street would be closed if RLD zoning and a plat were approved.

The proposed zoning is not in keeping with the Rural Comprehensive Plan. Mr. Kiesling asked if the County was going to update the Comprehensive Plan to reflect what the City of Olathe has indicated.

Mrs. Wicklund said the County is required to review the Comprehensive Plan annually to see if any updates are required. She said she is not sure when the next review or yearly update will take place. The updates are typically done in conjunction with area plans and sometimes the Planning Commission will take a portion of an area plan to review or update. She said they don't necessarily do a full update of the Comp Plan every year. At this time, the Comprehensive Plan for the area under consideration calls for it to be in the Rural Policy Area, which is a 10-acre minimum lot density. She said in a year or two the Comp Plan could be amended to better reflect Spring Hill and Olathe's annexation plans but, to date, that hasn't happened.

Discussion was held on if the County normally takes the cities' comprehensive plans and incorporates them into the overall County plan.

Mr. Kiesling said this particular application may not conform today but next year the County might decide to request what the City of Olathe's plan shows and then it does conform.

Mr. Anson said the applicants have to put in the road, the storm sewers, and the water line and realistically it might be two years before they build their house.

The proposed zoning does not meet the minimum infrastructure requirements.

Mr. Kiesling said these were the requirements that staff based their recommendation on. He asked if the board members had any comments.

Mr. Sanderson said basically we have a ½ mile deep, 20-acre piano key lot and if we start carving up these piano key lots, we open up "Pandora's box" with respect to the back portion of all the other piano key lots. He said the road is terribly expensive to build and the applicant is only going to construct it part of the way through.

Mr. Anson said the road is proposed to be built in phases so that the applicant's can recover some of their costs for construction.

Mr. Sanderson said this is a very deep lot, it was deep the day the applicants purchased it, and they knew it was a ½-mile deep lot. He said when we start carving up the backs of these types of lots, we set a dangerous precedence.

Mr. Anson said he is looking at the adjacent 50 acres to the west because it will be developed at some point and will not have access. He said it makes more sense to be able to have a public right-of-way for access.

Mr. Sanderson said he wishes that the owner of the 50 acres was a co-applicant but based on them not being a co-applicant; this is a stand alone 20 acre, piano-key lot. He said he can't and won't consider the 50 acres to the east because they are not a co-applicant.

Mr. Anson said the property owners to the east are dedicating a 40-ft. wide strip of ground for right-of-way and are tearing down a barn to do it.

Discussion was held on benefits of the new proposed road and how it would connect, and the CARNP Plan.

Mr. Kiesling said in 10 years sewers might be in and the property could be developed with 3 houses per acre. He said he would rather see larger lots because the existing houses are on larger lots and it would be more consistent. The proposed road would determine what could be done with the property to the east.

Mr. Anson said if the neighbor to the east develops his property, he would be doing something very similar and there would be 70 to 80 acres of 3 to 5 acre tracts, which would be very good for the property values in the whole area.

Mr. Kiesling said his biggest concern has been in trying to get water to this area and the fire safety factor. He said he doesn't know what Mr. Bowers' thinking is on 191st Street, but eventually it is going to have to be improved.

Mrs. Wicklund said she did not know what the CARNP map shows for Ridgeview but 191st Street is a Type 1 Road, which is a minor arterial road.

Mr. Kiesling said if you put 3 acre lots in, you are looking at 6 lots and the trips generated from 6 lots is not going to be that many per day. By the time something develops to the north and to the east, 191st Street is probably going to have to be improved.

Mrs. Wicklund said the items reviewed by Chairman Kiesling are the Golden Land Use Criteria, which staff uses for reviewing rezoning and platting applications. She said these are very specific criteria and they look at various things; not only future but current land use. If the zoning board does wish to recommend approval of the application, they would need to go through the Golden Criteria and be very specific about why approval of the application would meet the criteria. Staff recommends denial of the 3 minimum infrastructure requirements and if the zoning board wishes to recommend approval, they need to provide reasons why the rule exceptions should be granted.

Discussion was held on the requested waivers.

Mr. Bollin said because of the additional material given to him tonight, he needs more time to study the application. He said he has been by the property numerous times and knows some of the neighbors.

MR. BOLLIN MADE A MOTION TO CONTINUE APPLICATION NO. SC-RLD-2560. MR. SANDERSON SECONDED THE MOTION. MOTION CARRIED BY A 3-0 VOTE. Mr. LasKares abstained because he lives within 1,000 ft. of the subject property.

Mrs. Wicklund said the next regular meeting of the zoning board would be on June 6, 2005. She asked if the zoning board would like to have any additional from staff or the applicant.

Mr. Sanderson said he was looking at a staff report that was drafted in November of 2004, and would like to see a new staff report which includes the new information about the City of Spring Hill's plan for annexation of the area, and if water service is available to the site.

Mrs. Wicklund said the applicant should get something in writing from the Water District about the water line extension and fire flow.

Chairman Kiesling said he would also like to have a letter from the City of Olathe in relationship to their future land use plan and whether it has been adopted by the City Council.

Mr. Bollin said he would like to have a contour map.

Mr. Sanderson said he would like to have a letter from Norm Bowers stating what his requirements are for 191st Street.

Mrs. Wicklund said it might be good for Mr. Bowers to review the roads for the whole area and give the zoning board some ideas on where he thinks the road should go.

BUSINESS FROM THE FLOOR:

None

OLD BUSINESS:

None

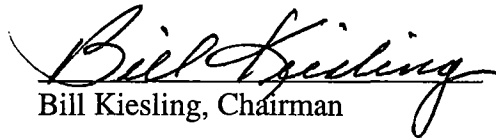
NEW BUSINESS:

None


ADJOURNMENT:

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

The meeting was adjourned at 7:40 P.M.


Bill Kiesling, Chairman

ATTEST:


Helen Scott, Secretary for the Board