

M I N U T E S

OKLAHOMA COUNTY PLANNING COMMISSION

November 14, 2013

1:30 p.m.

The meeting of the Oklahoma County Planning Commission convened and was called to order by Mr. Will K. Jones, Chairman, at 1:30 p.m., in Room 103, Oklahoma County Office Building, 320 Robert S. Kerr, with the following individuals present:

Mr. Will K. Jones, Chairman
Mr. James Benson, Vice-Chairman
Mr. David Richey, Member
Mr. Roger Holloway, Member
Mr. Joe Blough on behalf of Ms. Willa Johnson, County Commissioner Dist. #1

Also in attendance:

Mr. Tyler Gammon, Secretary
Mr. Stacey Trumbo, P.E., County Engineer
Ms. Gretchen Crawford, Assistant District Attorney
Mr. Erik Brandt, County Planner

Mr. Gammon called roll and a quorum was declared.

Approval of Minutes of the Previous Meeting: (October 10, 2013)

Mr. Holloway motioned to approve the minutes from the previous meeting as submitted. Mr. Benson seconded the motion. Vote taken: Benson – Aye, Holloway – Aye, Jones – Aye, Richey – Aye, Blough - Aye. The minutes from the October 10, 2013 meeting were approved.

Discussion and possible action to approve/deny the Preliminary Plat (PP-2013-01) of Summit Lake Estates, Section II.

SUMMIT LAKE ESTATES, SEC II

Applicant: **SUMMIT LAKES DEVELOPMENT, LLC**

The applicant proposed completion of the second phase of a single-family residential subdivision in accordance with a new Planned Unit Development (PUD-2013-01) which has approximately 77 lots on 79.86 acres. Common areas and ponds will be included as amenities. The following is the legal description of the property:

A tract of land situate within the Northwest Quarter (NW/4) of Section Eighteen (18), Township Fourteen North (T14N), Range Three West (R3W), Indian Meridian (I.M.) Oklahoma City, Oklahoma County, Oklahoma and more particularly described as follows:

COMMENCING at the Northwest Corner of said NW/4 at a found 1/2" iron bar found in place; thence S 00° 33' 07" E along the West line of said NW/4 a distance of 668.78 feet to the POINT OF BEGINNING, same being the Southwest corner of SUMMIT LAKE ESTATES SECTION 1, according to the recorded plat thereof; thence along the Southerly lines of said

plat boundary the following Thirty-nine (39) courses: N 89° 26' 53" E a distance of 87.90 feet to a point on a curve to the right; thence 57.25 feet along the arc of said curve having a radius of 100.00 feet, subtended by a chord of 56.47 feet which bears S 74° 09' 04" E; thence S 57° 45' 01" E a distance of 149.16 feet to a point on a curve to the right; thence 136.53 feet along the arc of said curve having a radius of 450.00 feet, subtended by a chord of 136.01 feet which bears S 49° 03' 30" E; thence S 40° 22' 00" E a distance of 279.86 feet to a point of tangent curvature to the right; thence 95.77 feet along the arc of said curve having a radius of 325.00 feet, subtended by a chord of 95.42 feet which bears S 31° 55' 31" E; thence S 23° 29' 03" E a distance of 189.85 feet to a point of tangent curvature to the right; thence 86.91 feet along the arc of said curve having a radius of 325.00 feet, subtended by a chord of 86.65 feet which bears S 15° 49' 24" E ; thence S 08° 09' 45" E a distance of 28.61 feet to a point of tangent curvature to the left; thence 19.63 feet along the arc of said curve having a radius of 25.00 feet, subtended by a chord of 19.13 feet which bears S 30° 39' 33" E, to a point of reverse curvature; thence 92.93 feet along the arc of said curve having a radius of 50.00 feet, subtended by a chord of 80.12 feet which bears S 00° 05' 11" W, to a point of reverse curvature; thence 18.95 feet along the arc of said curve having a radius of 25.00 feet, subtended by a chord of 18.50 feet which bears S 31° 36' 46" W to a point of reverse curvature; thence 73.29 feet along the arc of said curve having a radius of 325.00 feet, subtended by a chord of 73.13 feet which bears S 16° 21' 25" W ; thence S 22° 49' 02" W a distance of 285.41 feet to a point on a curve to the left; thence 39.14 feet along the arc of said curve having a radius of 25.00 feet, subtended by a chord of 35.26 feet which bears S 22° 01' 50" E, to a point on a compound curvature to the left; thence 29.51 feet along the arc of said curve having a radius of 75.00 feet, subtended by a chord of 29.32 feet which bears S 78° 09' 08" E ; thence S 89° 25' 34" E a distance of 177.99 feet; thence N 00° 34' 26" E a distance of 224.14 feet; thence N 18° 53' 16" E a distance of 319.79 feet; thence N 11° 19' 22" W a distance of 300.07 feet; thence S 89° 55' 37" E a distance of 140.42 feet; thence S 61° 57' 24" E a distance of 288.99 feet; thence N 13° 20' 07" W a distance of 132.22 feet to a point on a curve to the right; thence 110.19 feet along the arc of said curve having a radius of 325.00 feet, subtended by a chord of 109.66 feet which bears N 03° 37' 20" W, to a point of reverse curvature; thence 33.92 feet along the arc of said curve having a radius of 25.00 feet, subtended by a chord of 31.38 feet which bears N 32° 47' 07" W, to a point on a curve to the left concave Northeast; thence 64.16 feet along the arc of said curve having a radius of 325.00 feet, subtended by a chord of 64.06 feet which bears S 77° 19' 01" E; thence S 82° 58' 19" E a distance of 31.62 feet to a point on a non-tangent curve to the left, concave Southeast; thence 40.52 feet along the arc of said curve having a radius of 25.00 feet, subtended by a chord of 36.23 feet which bears S 50° 35' 32" W, to a point on a curve to the left; thence 83.96 feet along the arc of said curve having a radius of 275.00 feet, subtended by a chord of 83.63 feet which bears S 04° 35' 22" E; thence S 13° 20' 07" E a distance of 334.96 feet to a point of tangent curvature to the right; thence 125.74 feet along the arc of said curve having a radius of 200.00 feet, subtended by a chord of 123.68 feet which bears S 04° 40' 34" W, to a on a curve to the right; thence 37.31 feet along the arc of said curve having a radius of 25.00 feet, subtended by a chord of 33.94 feet which bears S 20° 03' 55" E; thence S 62° 49' 05" E a distance of 22.72 feet to a point of on a curve to the left; thence 174.26 feet along the arc of said curve having a radius of 175.00 feet, subtended by a chord of 167.15 feet which bears N 88° 39' 20" E; thence N 60° 07' 47" E a distance of 301.36 feet to a point on a curve to the right; thence 360.62 feet along the arc of said curve having a radius of 250.00 feet, subtended by a chord of 330.16 feet which bears S 78° 32' 42" E ; thence S 37° 13' 14" E a distance of 293.40 feet; thence N 52° 46' 46" E a distance of 182.43 feet; thence N 89° 55' 42" E a distance of 170.01 feet to a point on the East line of said NW/4; thence S 00° 04' 23" E along said East line a distance of 1063.44 feet to the Southeast corner of said NW/4 marked by a 3/8" bar found in place; thence N 89° 16' 12" W along the South line of said

NW/4, same being coincident with the North lines of MISSION SPRINGS 2nd ADDITION and the North line of MISSION SPRINGS 1st ADDITION, according to the recorded plats thereof a distance of 2581.51 feet to the Southwest corner of said NW/4 marked by a PK nail found in place; thence N 00° 33' 07" W along the West line of said NW/4 a distance of 1981.05 feet to the POINT OF BEGINNING. Said tract contains 3,478,700 Square feet or 79.86 Acres, more or less.

Location: NW 220th and May Ave. (County Highway District. #3)

Mr. Gammon stated that the application was the second phase of an existing subdivision. He added that the revised PUD and general plat applications had been approved both at a previous planning commission meeting. He stated that the applicant was now requesting approval of the preliminary plat so that construction could begin.

Mr. Jones asked about the emergency access bridge between phases I and II.

Mr. Trumbo stated that the "bridge" was actually an earthen dam that would be used as a walking trail and access route for emergency vehicles.

Mr. Phil Hagan, Crafton Tull & Associates, was present to answer any questions.

Mr. Jones asked if water was allowed to flow between the two lakes on either side of the dam.

Mr. Hagan replied that there was a drainage structure in place and had been in place since the construction of phase I of Summit Lake Estates.

Mr. Richey asked if the cul-de-sacs met the minimum requirements to allow for buses to turn around.

Mr. Hagan answered that all the cul-de-sacs met the County's requirements.

Mr. Benson motioned to approve the application. Mr. Richey seconded the motion. Vote taken: Benson – Aye, Holloway – Aye, Jones – Aye, Richey – Aye, Blough - Aye. The preliminary plat was approved.

(Deferred Item from March 14, 2013 PC meeting): Discussion and possible action to approve/deny a zoning change from AA–Agricultural and Rural Residential District to Planned Unit Development (PUD-2012-02).

Application of: **CRAFTON TULL & ASSOCIATES**

The applicant proposed developing a residential subdivision according to the RS-Urban Single Family Residential District with lots approximately one half acre in size and an approximate 5 acre commercial corner. The proposed development encompasses approximately 160.64 acres. The following is the legal description of the property:

A tract of land located in the Northwest Quarter (NW/4) of Section Thirty-Four (34), Township Fourteen North (T-14-N), Range Four West (R-4-W), I.M., Oklahoma County, Oklahoma, said tract being more fully described as follows: Beginning at the Northwest Corner of said Northwest Quarter (NW/4); Thence N 89°55'15"E along the North line of

said Northwest Quarter a distance of 2654.81 feet; Thence S 00°00'40"W along the East line of said Northwest Quarter a distance of 2640.17 feet; Thence S 89°58'20"W a distance of 567.00 feet; Thence S 89°53'55"W a distance of 1826.00 feet; Thence S 89°36'35"W a distance of 261.00 feet to a point on the West line of said Northwest Quarter; Thence N 00°00'24"W along the West line of said Northwest Quarter a distance of 2637.79 feet to the Point of Beginning; Said tract containing 160.64 acres, more or less.

Location: NW 178th & MacArthur Blvd. (County Highway District #3)

Mr. Gammon stated that the project had been in the works since December 2012. He added that sewer and water issues as well as the proposed number of lots had caused stumbling blocks and required several delays at the request of the applicant.

Mr. Jones asked if Deer Creek water would service the project.

Mr. Gammon replied that Deer Creek Water would serve the project as stated in a letter on file with the Oklahoma County planning department.

Mr. Dennis Box, attorney for the applicant, stated that he and his client had attempted for almost a year to obtain easements for the construction of sanitary sewer and had been unsuccessful without the power to utilize eminent domain. Therefore he stated that sanitary sewer was not available. He added that aerobic systems or traditional septic tanks would be used in conjunction with water service from Deer Creek Water Corporation.

Mr. Holloway asked what the minimum acreage allowable was to utilize a septic system along with water service.

Mr. Box answered that the minimum acreage was one-half (1/2) acre.

Mr. Jones asked if the applicant had access to the planning department's staff report. He stated that the following items needed to be addressed and brought to the attention of the applicant for compliance with the master plan:

- Completion of a traffic study
- Installation of fire hydrants
- A minimum open space of 24.10 acres
- Determination of need for 401 or 404 permit from Corps of Engineers

Mr. Gammon stated that the applicant was mailed a staff report along with the agenda.

Mr. Kendall Dillon, Crafton & Tull, stated that he was aware of the requirements and would comply with them all.

Mr. Keith Monroe, adjacent property owner to the west, stated that he was concerned with the possibility of untreated sewage running on to his property from ill-kept septic systems. He added that the Department of Environmental Quality initially permitted all septic systems but failed to do periodic inspections unless notified of an issue. He added that he had negotiated with the applicant to allow an easement for sanitary sewer on his property, but two other property owners were not cooperative. It was his wish to see the use of sanitary sewer installed; instead of private septic systems. Mr. Monroe went on to say that he found that the state statutes suggested that

under Title 27, Section 6 a private person could exercise their power of eminent domain. The statute read as follows:

“Any private person, firm or corporation shall have power to exercise the right of eminent domain in like manner as railroad companies for private ways of necessity or for agriculture, mining and sanitary purposes.”

Mr. Blough requested a ten minute recess.

The meeting was recessed.

The meeting was reconvened at 2:00 p.m.

Ms. Crawford stated there was a statute on the books since 1910 as Mr. Monroe presented, but there was no case law to support the statute. She stated that basically the statute was untested. She added that she saw no reason why one could not attempt to try what the statute allowed.

Mr. Dennis Box, attorney for the applicant, stated that he had done condemnation and land use work for over 30 years and he had never witnessed a private citizen given the authority to take another individual's property. He added that there was no case law to support the statute and would not subject his client to the liability associated with the condemnation process.

Ms. Crawford stated that the County could not condemn property, but possibly Oklahoma City could. She stated that she did not know if the applicant had tried to get the City to condemn the properties for them. She also added that she did not know what the City's regulations were in extending sanitary sewer lines. She said that the City may require that the developer obtain all needed easements or even possibly install the substructures. On the other side of the coin, she felt that it was difficult to require a developer to litigate something to comply with Oklahoma County regulations. She added that litigation was time consuming, expensive and the outcome was always unknown.

Mr. Jones asked if the applicant had exhausted all efforts to determine the accessibility of sewer as necessitated by the Planning Commission.

Ms. Crawford answered that the Board would have to make that determination.

Mr. Blough asked for clarification on the location of the sewer lines.

Mr. Kendall Dillon, Crafton Tull & Associates, distributed a map showing the current sewer line location.

Mr. Dillon stated that he had been unable to obtain the necessary easements to extend the sewer, had made every reasonable effort to do so and felt that it was time to move forward with the application.

Mr. Benson asked for explanation of the proposed drainage for the subdivision.

Mr. Dillon presented a map showing the ridge lines and discharge points for the property.

Mr. Blough asked for a description of the properties surrounding the proposed development.

Mr. Dillon replied that to the south was Oklahoma City with roughly four to five dwelling units per acre. He stated to the north was Deer Creek Hills Addition with roughly one to two dwelling units per acre. He added that his proposed development was in the transition phase between densely populated to less densely populated as required in the master plan.

Mr. Blough asked for clarification on the wording of the state statute. He stated that in his experience when talking about statutes and when there is not a reasonable amount of case law supporting it, one should resort to the “plain and simple” interpretation of the law.

Mr. Box stated that was a fair statement regarding the law in general. He stated in this case they were dealing with a property owner’s rights and that courts were reluctant to encroach on that right. He added that if he thought the statute was a legitimate tool in regards to his client, he would have used it already.

Mr. Benson motioned to approve the application.

The motion died for lack of a second.

Ms. Crawford stated that the Board would have to act on the item to comply with the statutes. She stated the statutes require that the Board act on a proposed plat. She added that failure to act after sixty days (60) would result in the plat being deemed approved. She stated that the Board could vote to defer the item as long as the applicant was in agreement.

Mr. Jones stated that the item had been deferred, at the request of the applicant, too many times already.

Ms. Crawford stated that when a developer asks for a continuance or deferral, the record must be very clear that the applicant requested the deferral and it was not done at the Board’s discretion to avoid the sixty (60) day statutory provision.

Mr. Box stated that he would agree to have the item passed on to the Board of County Commissioners without a recommendation from the Planning Commission.

Ms. Crawford stated that she believed that request did not comply with the statutes. She added that the County Commissioners relied heavily on the recommendation of the Planning Commission.

Mr. Holloway motioned to approve the application. Mr. Benson seconded the motion. Vote taken: Benson – Aye, Holloway – Aye, Jones – Aye, Richey – Nay, Blough – Abstain. The PUD application was approved.

(Deferred Item from March 14, 2013 PC meeting): Discussion and possible action to approve/deny the General Plat (GP-2012-05) of Mayflower, a residential subdivision, according to the Planned Unit Development (PUD-2012-02).

MAYFLOWER

Application of:

CRAFTON TULL & ASSOCIATES

The applicant proposed developing a residential subdivision according to the RS-Urban Single Family Residential District with lots approximately one-half acre in size and an approximate 5 acre commercial corner. The proposed development encompasses approximately 160.64 acres. The following is the legal description of the property:

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Location: NW 178th & MacArthur Blvd. (County Highway District #3)

Mr. Gammon stated that this item was a companion item to the previous item.

Mr. Dillon stated that the proposed development would have 197 lots and would answer any questions the Board had.

Mr. Benson asked if there would still be 197 lots when the green space requirement was fulfilled.

Mr. Dillon replied that with additional green space the development would lose 6 to 7 lots.

Mr. Richey motioned to approve the application. Mr. Benson seconded the motion. Vote taken: Benson – Aye, Holloway– Aye, Jones – Aye, Richey – Aye, Blough - Abstain.

Discussion and possible action regarding survey questionnaire sent to residents of Unincorporated Oklahoma County for purposes of updating the Oklahoma County Master Plan.

Mr. Gammon stated that three hundred (300) surveys had been sent out to date. He added that sixty (60) had already been returned. He also added that two hundred (200) more surveys would be sent out in the near future.

Mr. Jones stated that he was impressed with the response from the unincorporated Oklahoma County residents.

Discussion and possible action to receive October 2013 Fee Fund Report.

Mr. Richey motioned to receive the fee fund report for October 2013. Mr. Benson seconded the motion. Vote taken: Benson – Aye, Holloway– Aye, Jones – Aye, Richey – Aye, Blough - Aye. The report was received.

New Business:

There was no new business.

Adjournment:

Mr. Holloway motioned to adjourn the meeting. Mr. Richey seconded the motion. Vote taken: Benson – Aye, Holloway – Aye, Jones – Aye, Richey – Aye, Blough - Aye. The meeting was adjourned at 2:45 p.m.

Approved this _____ day of _____, 2013

**OKLAHOMA COUNTY
PLANNING COMMISSION**

Will K. Jones, Chairman

ATTEST:

Tyler Gammon, Jr., Secretary