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RESOLUTION NO. 35-2003

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY RESOLUTION NO. 84-01.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

**SECTION I.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

**Case No.ZON2001-00073**

Zone change from "RR" Rural Residential to "SF-20" Single-Family Residential, and to "P-O" Protective Overlay District #112 on property described as:

Bentley Meadows Addition, Sedgwick County, Kansas. Generally located west of 135<sup>th</sup> Street West, ¼ to ½ mile south of 109<sup>th</sup> Street North, in the Bentley, KS area of influence.

**SUBJECT TO THE FOLLOWING PROTECTIVE OVERLAY #112 RESTRICTIONS:**

1. The minimum lot size shall be 40,000 square feet.
2. No development shall take place until individual lot, on-site, alternative sewer systems are permitted by county code.
3. The owner of this property shall provide for an AB3 cover with gravel to be placed on 135<sup>th</sup> Street adjacent to this property.

**SECTION II.** That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

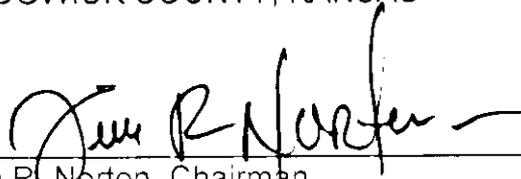
**SECTION III.** That this Resolution shall take effect and be in force from and after its adoption and publication.

Commissioners present and voting were:

BETSY GWIN	<u>aye</u>
TIM R. NORTON	<u>aye</u>
THOMAS G. WINTERS	<u>no</u>
CAROLYN MCGINN	<u>aye</u>
BEN SCIORTINO	<u>aye</u>

DATED this 8<sup>th</sup> day of August, 2002.

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

  
\_\_\_\_\_  
Tim R. Norton, Chairman  
Second District

ATTEST:

  
\_\_\_\_\_  
DON BRACE  
County Clerk



APPROVED AS TO FORM ONLY:

  
\_\_\_\_\_  
ROBERT W. PARNACOTT  
Assistant County Counselor

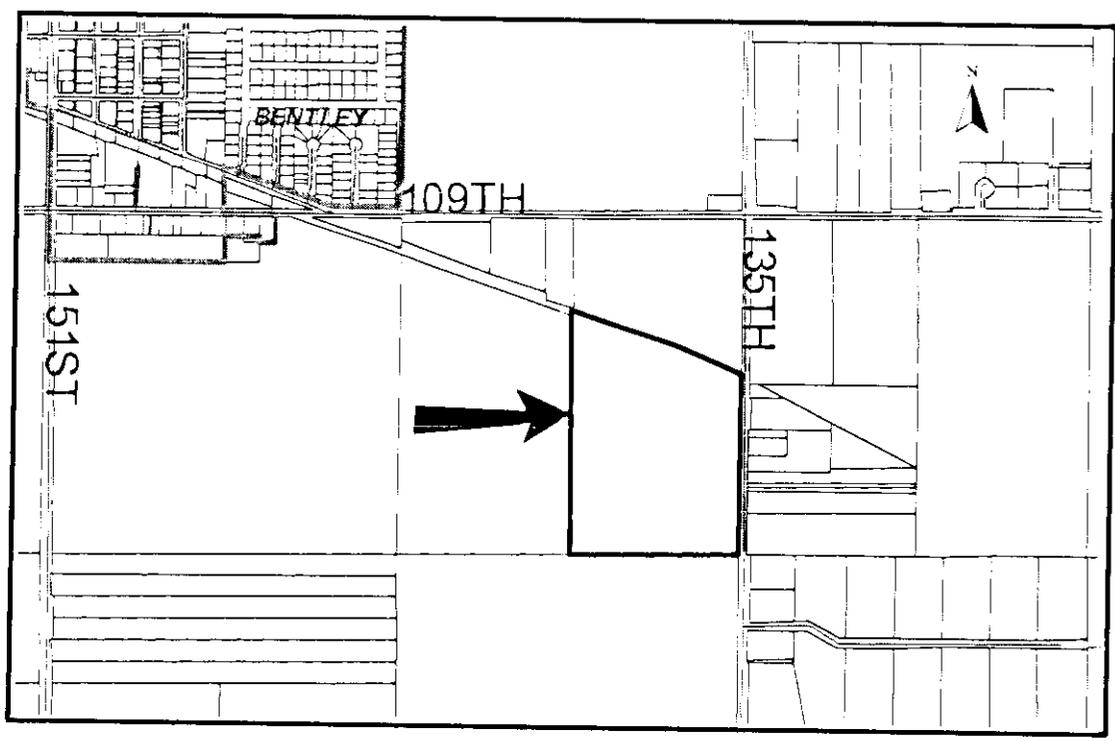


AGENDA ITEM NO. \_\_\_\_\_

# STAFF REPORT

City of Bentley Planning Commission 01-28-02  
MAPC 02-07-02

- CASE NUMBER: ZON2001-00073
- APPLICANT/AGENT: Bentley Growth LLC, L. E. Billenger (owners); Harlan Foraker (agent)
- REQUEST: Zone change to "SF-20" Single-Family Residential
- CURRENT ZONING: "RR" Rural Residential
- SITE SIZE: 49 acres
- LOCATION: West of 135<sup>th</sup> Street West, ¼ to ½ mile south of 109<sup>th</sup> Street North, in the Bentley, KS area of influence
- PROPOSED USE: To allow for development of 36 residential lots at a minimum lot size of 40,000 square feet



**BACKGROUND:** The application area consists of a 49-acre, unplatted parcel located on the west side of 135<sup>th</sup> Street West, ¼ to ½ mile south of 109<sup>th</sup> Street North. The application area is located approximately ¾ of a mile southeast of the Bentley city limits, and is in the Bentley "zoning area of influence." The property is currently zoned "RR" Rural Residential, and has been used for agricultural purposes. The applicant is requesting "SF-20" zoning in order to develop a residential subdivision with lots having a minimum size of 40,000 square feet. 40,000 square feet is the minimum lot size necessary to develop with an on-site waste-water treatment system in the "SF-20" district, as opposed to 2 acres minimum in the "RR" district. The developer proposes 36 lots on 49 acres, each serviced with its own septic system and private well. The MAPC Subdivision Committee was scheduled to hear a preliminary plat application for the subject property, known as "Bentley Meadows," on March 1st, 2001. At the request of the applicant, the action of the Committee was to defer the case indefinitely.

Surrounding the application area in all directions is "RR" zoned property. The lot to the immediate north is developed with a private lake and a single family residence, the properties to the south and east are developed with agricultural uses, and single-family residences exist across 135<sup>th</sup> - west of the application area. The majority of the lots in this area are two acres or larger.

The application area lies within the Equus Beds Groundwater Management District Number 2, a designated sensitive groundwater area. The application area overlies a portion of the Equus Beds aquifer. This general area has recorded water levels as shallow as 8.9 feet. The Equus Beds Groundwater Management District Number 2 recommends prohibiting the use of septic tanks and lateral fields in this area, due to the risk of water supply contamination; and also recommends prohibiting the use of individual domestic water wells, due to a potential reduction of the water supply. The water rights in this area have been fully allocated; therefore the development could not get a permit to drill one supply well for the entire development. But a provision in state water regulations does not restrict individual wells on home sites. This means that developments like this one will reduce the supply that has been previously allocated among previous property owners in this general area. The Equus Beds Groundwater Management District recommends that the application area be served with public sewer and water supply.

The City of Wichita Water Department, who owns water rights in the area, is also opposed to developments located in the Equus Beds utilizing on-site water and sanitary sewer facilities, for the same reasons. See the resolution document attached to this report. The applicant states that he has petitioned the City of Bentley for annexation of this site and extension of public services, and has been denied by the governing body.

**CASE HISTORY:** Bentley Meadows preliminary plat discussed above.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	single family residence
SOUTH:	"RR"	agriculture
EAST:	"RR"	single family residences and agriculture
WEST:	"RR"	agriculture

**PUBLIC SERVICES:** The application area is located along 135<sup>th</sup> Street West, a un-paved section line road maintained by the township. No traffic count is available for this section of 135<sup>th</sup>, and no street projects are included in the C.I.P. 36 additional homes using this unpaved road would pose significant maintenance problems in that 360 trips per day would be added by this project. A general rule of thumb used by the County Public Works Department is that unpaved roads are suitable for up to 300 trips per day. The precedent of smaller lot sizes in this area will encourage additional requests of this type, compounding the problem. The property currently has no vehicular access, and the existing half-width right-of-way for 135<sup>th</sup> is 30 feet. The property currently has no water or sewer available; the applicant proposes that each lot serve itself with a private well and septic tank.

**CONFORMANCE TO PLANS/POLICIES:** The "Sedgwick County Development Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as "rural." The *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* further defines the land use category of "rural" as "... intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services." The Unified Zoning Code designates the "SF-20" district as generally compatible with the "Rural" designation of the *Comprehensive Plan*. Prior to the 1999 Amendments to the Plan, which collapsed the "agricultural" and "suburban" categories into one "rural" category, the "SF-20" district was intended to be restricted to the "suburban" areas only, and this area was not designated "suburban." The *Comprehensive Plan* also calls for looking at special land use and/or sanitation code requirements to protect public well water supplies from contamination.

An objective of the Plan is to "Encourage future growth and development to areas served by existing public facilities and services, or which can be served economically and promote compact and contiguous development." Another objective of the Plan is to "Encourage agricultural activities within Sedgwick County."

The 1997 City of Bentley Comprehensive Plan does not identify the application area as one of the city's designated development areas. The Bentley Comprehensive Plan states that "Future development should be reviewed to assure that it is not detrimental to the Equus Beds, the source of drinking water for the township, Bentley, and other municipalities."

**RECOMMENDATION:** This property is located within the Equus Beds, the primary water supply for virtually all citizens living in Sedgwick County. The economic viability of nearly all businesses and individuals in Sedgwick County is dependent upon the continued reliability of the quality and quantity of the Equus Beds water. A multitude of 40,000 square foot lots on "SF-20" zoned land, served by on-site sewer and water facilities, is an incompatible density for property located in the Equus Beds aquifer.

Further, the proposed development is not contiguous to Bentley or in it's planned growth area. Because the proposed doubling of the density of wells and on-site septic systems would further endanger both water quality and quantity, as discussed in the attached professional report from the Equus Beds District manager; and because the proposed project is not consistent with the Plan's objectives to preserve agricultural lands; and because the proposed 40,000 square foot lots are not consistent with the size of the majority of the lots on surrounding property, Staff cannot support this request for "SF-20" zoning.

In a nearby case, the City of Wichita governing body recently adopted a resolution opposing the rezoning and platting of a similar development. The similar development proposed like sized lots served with individual septic tanks and wells. The City of Wichita governing body adopted this resolution to protect environmental resources, namely the Equus Beds as a water supply. See the resolution attached to this report. The application area can and should be left in agricultural use, along with the 476,532 acres that are currently used for agriculture in Sedgwick County, or developed at a very low density, until the City of Bentley is prepared to extend public water and sewer utilities.

Therefore, based upon information available prior to the public hearings, planning staff recommends that this requested zone change be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are all zoned "RR" and developed with residential and agricultural uses. This proposal for "SF-20" zoning is inconsistent with the character of the area, which is larger lot residential and agriculture.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which primarily permits large lot residential development and agricultural uses. The site could be developed as currently zoned, with larger lot sizes, or continue in its present agricultural use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development under "SF-20" would increase residential density putting the area water supply more at risk; this would have a detrimental effect on the surrounding properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This request is not in conformance with the "Sedgwick County Development Guide" map, which depicts this site as appropriate for "rural" uses, and not within the Bentley growth area. Also, the proposed development is not consistent with policies that encourage more compact growth in urban fringe areas and preservation of agricultural uses. This request is not in conformance with the City of Bentley Comprehensive Plan, in that it is not within a designated growth area, and could potentially threaten the area water supply.
  
5. Impact of the proposed development on community facilities: A zone change at this location on 135<sup>th</sup> will increase the traffic and maintenance requirements of this unpaved road, and set a precedent for additional developments at this density, which will add to the problem. The most significant impact of the proposed development, and of additional development in this area that doubles the number of private wells and septic tanks in an area of sandy soils, high ground water, and a water supply that has already been fully appropriated to other users; would be to further risk a major water supply, from both qualitative and quantitative standpoints.