

From: Judie Anderson
Sent: Monday, March 8, 2021 9:28 AM
To: John Enga <johnenga@yahoo.com>
Subject: RE: Questions for Project Review for the 2021-002 Skye Meadows Variance, Rogers

Good morning, Mr. Enga.

I have received your email and it will be made part of the record for Wednesday's meeting.

Thank you for your interest and your questions.

- *Judie*

Judie A. Anderson

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Representing Elm Creek, Shingle Creek, West Mississippi, and Pioneer-Sarah Creek WMOs and Clearwater River WD

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From: John Enga <johnenga@yahoo.com>
Sent: Monday, March 8, 2021 8:08 AM
To: Judie Anderson <Judie@jass.biz>
Subject: Questions for Project Review for the 2021-002 Skye Meadows Variance, Rogers

Hello Judie,

I am a Rogers resident and am unable attend the March 13th meeting due a work conflict. Could my comments / questions below concerning Project Review 2021-002 Skye Meadows Variance, Rogers be shared with the commissioners for the open forum/project discussion?

Does the development agreement state that the strictest requirements need to be met (Elm Creek Watershed requirements)? Did the developer agree that breaking ground on Phase 1 before review was completed was at their own risk?

Existing homes already built should not be used to justify a continuance of building basements below the current watershed requirements. If the same hardship was demonstrated in the future, would this set an expectation for potential development activity in this area?

Will the developer be required to clearly disclose to potential buyers that these builds have a variance due to the low floor elevations constructed below the Elm Creek Watershed requirement? Will potential buyers be taking on an uninformed risk?

If a water intrusion or flood occurs, what will the ramification be? Who will be liable for the cost of repairs? The developer, the City of Rogers, or the homeowner? Would the standard industry warranty even cover such an event if it not a workmanship issue but an act of nature? What is the time limit of the warranty?

While there have been no complaints of flooding from the existing homeowners to the north for the last 15 years, that is not same as 100-year flood event. These requirements are in place to protect homeowners from possible water intrusion.

Are there other options or modifications to the homes designs that could be done to meet the grade / low floor requirements? Such as building the living portion of the house on high enough ground to meet the low floor elevation requirement with the garage floor set lower (i.e.10 ft ceilings instead of 8 ft ceilings) so the driveway grade would be acceptable or detached villas? Would another option be to curve Racheal Drive to one side and allow for longer driveways (deeper lot) with more gradual slope? It would eliminate some lots but allow the other homes to be elevated.

Thank you.

Regards,

John Enga,

12420 Tilton Trail North, Rogers, MN 55374

From: Emily Shaw <Emily.Shaw@ISGInc.com>

Sent: Wednesday, March 10, 2021 10:42 AM

To: Soren Mattick <SMattick@ck-law.com>; Joe J. Waln <JWaln@barr.com>

Cc: Judie Anderson <Judie@jass.biz>; Andrew Simmons <asimmons@rogersmn.gov>; James Kujawa <surfacewatersolutions@outlook.com>; Doug Baines (doubaines@yahoo.com) <doubaines@yahoo.com>; Jeremy Foss <Jeremy.Foss@ISGInc.com>

Subject: RE: ECWMC - Skye Meadows Variance

All,

We have pulled together responses to Mr. Enga's questions and outlined below to be included with the discussion of the Elm Creek Commission meeting today.

Elm Creek Watershed Commission and Mr. Enga,

This email is to provide clarifications and responses to the questions asked by Mr. Enga via email on March 8th, 2021. Below are the questions as received and then followed by responses that have been compiled and finalized between discussions with the City of Rogers, Lennar, and ISG.

- Does the development agreement state that the strictest requirements need to be met (Elm Creek Watershed requirements)? Did the developer agree that breaking ground on Phase 1 before review was completed was at their own risk?
 - As part of design and review process, multiple reviews occur between city staff and engineer(s). When it comes to stormwater review, engineers specializing in hydrology and hydraulics review the modeling against both the developers engineers and the city-wide model to ensure rates and volume requirements are being met, as well as determining the existing high-water levels/normal water levels are being met. The development did agree to break ground on Phase 1 at their own risk.
- Existing homes already built should not be used to justify a continuance of building basements below the current watershed requirements. If the same hardship was demonstrated in the future, would this set an expectation for potential development activity in this area?
 - The existing homes are not being used to justify the continuance, they are being used as a real life reference for what has happened and not a model that has variability. It is true though, that the existing homes were constructed under the same set of rules, with low floors below the high-water level (HWL). There are several other instances around the City where this rules was not met. The 11 lots discussed in the variance are part of a transition area from existing infrastructure and will not result in future variances for other parts of the development. Developer has modified the site plan and design to greatest extents to balance meeting City, State, and Watershed requirements.
- Will the developer be required to clearly disclose to potential buyers that these builds have a variance due to the low floor elevations constructed below the Elm Creek Watershed requirement? Will potential buyers be taking on an uninformed risk?
 - The developer is not required to disclose that the homes do not meet the Elm Creek Watershed requirements. These homes are not located within a FEMA designated floodplain, therefore there are not laws requiring notification or flood insurance. If this was in place, every existing house that does not meet the current watershed rule interpretations would need to disclose this as part of the sale of property. As stated above, this situation has occurred in the past several times.

- If a water intrusion or flood occurs, what will the ramification be? Who will be liable for the cost of repairs? The developer, the City of Rogers, or the homeowner? Would the standard industry warranty even cover such an event if it not a workmanship issue but an act of nature? What is the time limit of the warranty?
 - Homeowners are able to purchase flood insurance, but as mentioned above, these are not regulated flood plains and therefore flood insurance is not required. The proposed homes' basements are above normal water levels (NWL) of adjacent wetlands and have low opening 2' above the 100-year elevation.
 - Warranties in general do not cover an act of nature over the 100-year event, but again this would be a discussion regarding insurance.
 - We feel it is important to bring up the difference between flooding via surface water and flooding via groundwater. Very important measures are put in place to prevent flooding from surface water which include structure low openings constructed a minimum 2-ft above the 100-year elevation. These requirements are all being met. When it comes to flooding via groundwater, it is a requirement for homes to be constructed with a low floor elevation above the normal water elevation (NWL). Additionally, it is industry standard for homes to be constructed with draitile, sump pump, and vapor barrier to reduce the probability of groundwater entering through basement walls, especially in heavy clay soils as found in Rogers. What is being asked in this particular situation is for the low floor elevation to be constructed above the (HWL). During a heavy storm event, the pond elevation will only be above the NWL for a few hours. In heavy clay soils, water travels at a rate of approximately 0.02 to 0.06in/hour. Even after a few hours of the pond elevation being above the NWL, the water would only travel laterally through the clay soils less than a foot, and would likely have little to no effect on the groundwater from the pond/wetland reaching basements. The rain falling next to the home would have the largest effect of groundwater against basement walls, and draitile/sump pumps are installed around each home to protect them from this water. Situations where its very important to keep low floor elevations above the HWL would include building in floodplain, where the HWL is maintained for several days (sometimes weeks) at a time. In these situations, groundwater does have time to travel and be more of a concern for low floor elevations.

- While there have been no complaints of flooding from the existing homeowners to the north for the last 15 years, that is not same as 100-year flood event. These requirements are in place to protect homeowners from possible water intrusion.
 - Correct, however as mentioned above these home basements are above the NWL and lowest opening 2' above the 100-year elevation. Using on-site soil borings, the soils are consistent lean clays free of sand vanes which results in very slow lateral movement. All rainfall events are temporary and the water does recede in approximately 8 hours following a 100-year event. This illustrates that with low lateral movement and the function of these waterbodies that homes have a low risk of flooding.

- Are there other options or modifications to the homes designs that could be done to meet the grade / low floor requirements? Such as building the living portion of the house on high enough ground to meet the low floor elevation requirement with the garage floor set lower (i.e.10 ft ceilings instead of 8 ft ceilings) so the driveway grade would be acceptable or detached villas? Would another option be to curve Racheal Drive to one side and allow for longer driveways (deeper lot) with more gradual slope? It would eliminate some lots but allow the other homes to be elevated.

- The Developer has looked at multiple options for the lots in question. Rachael Drive was originally designed with the intent to be extended per the City of Rogers comprehensive plan. The site restrictions in this area include the connection to existing infrastructure and two wetlands on each side of Rachael Drive. The current layout results in the least amount of permanent wetland impacts which was a concern of the city and watershed. The current road alignment is also approximately 8'-10' above existing grade and homes only have 8' ceilings. A roadway realignment would result in greater impacts to the wetland and still present the same challenges with the elevations of the homes due to existing grades. A lot reduction would not eliminate this problem again due to existing elevations of the roadway and homes.

Thanks,
Emily



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Civil Engineer
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