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Council will revisit zoning

By **Caroline Boyer**, City Reporter
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With a motion to table at the Shawnee City Council meeting Monday, the fate of one of the city's most argued-over properties remains unknown.

After two hours of testimony in a public hearing, the Council decided a rezoning decision for the Kenneth Smith property might be worth another look, but a final decision was tabled until the Council's Feb. 27 meeting so city staff could review the evidence.

Hanging in the balance are a lawsuit against the city, the Fairway Park residential development and the future of the historic buildings on the property.

In 2004, A lawsuit was filed against the city by residents who protested the city's decision to rezone 60 acres of land in the 30000 block of 71st Street, known as the Kenneth Smith property, from residential suburban to single-family residential to make way for the 86-lot Fairway Park subdivision.

The plaintiffs claimed the city was unreasonable in its decision to rezone to a higher density development given stormwater problems in the area. Johnson County District Judge Thomas Sutherland ordered the Council to hear the residents' evidence of this in November.

The Council first heard testimony from civil engineer and engineering professor Steve Starrett, who told the Council that there were major errors and omissions from the preliminary drainage report developers turned in before the Council made its rezoning decision.

Though the report indicated a pond would be capable of holding stormwater runoff from the development, Starrett said it was obvious the author lacked skills to make the report, calling it "vague and incomplete" and calling the figures on a whole page in the report "worthless."

Also testifying were Ralph Oschner, a professional city planner, who said the developer would have little financial detriment if he reduced the lot sizes found in residential suburban zoning, and Larry Witt, president of a real estate appraisal firm, who said it looked as though the city might have to buy up flooded Fairway Hills homes if the Fairway Park development increased floodplain problems.

A member of the Kansas Preservation Alliance testified to the historical

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value of the property.

Gene Russell, the primary resident who filed the suit, also testified to evidence he discovered showing problems with the development of Fairway Hills, adjoining the Smith property west and downstream from the development.

Fairway Hills' stormwater drainage system cannot even handle its own drainage now, he said, and another, more dense development would only exacerbate problems.

"We're not saying we don't want development," Russell said. "We're saying that we want residential suburban zoning because that has the least impact on developments downstream."

When the testimony hearing was concluded, Council member Kevin Tubbesing said that the evidence presented indicated that information the Council used in making its decision to rezone was false, and he asked to table the issue until Feb. 27 so staff could review the evidence. The Council approved the motion 7-0. Noting that he voted against the rezoning, Sandifer abstained from the vote to table.

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