

GEORGETOWN-SCOTT COUNTY PLANNING COMMISSION
REGULAR MEETING
MINUTES
August 13, 2015

The regular meeting was held in the Scott County Courthouse on August 13, 2015. The meeting was called to order by Chair Rob Jones at 6:00 p.m. Present were Commissioners Jeff Caldwell, Janet Holland, Regina Mizell, Byron Moran, John Shirley, Steve Smith, Mark Sulski, and Frank Wiseman, Director Joe Kane, Planners Megan Chan and Matt Summers, Engineer Brent Combs, and Attorney Charlie Perkins.

Motion by Holland, second by Sulski, to approve the July invoices. Motion carried.

Motion by Caldwell, second by Holland, to approve the July 9, 2015 minutes. Motion carried.

Motion by Mizell, second by Caldwell, to approve the July 14, 2015 minutes. Motion carried.

Motion by Shirley, second by Moran, to approve the August agenda. Motion carried.

Postponements/Withdrawals

The Oakleaf Townhomes application was postponed to the September meeting. Motion carried.

Consent Agenda

There were no items for the Consent Agenda.

ZMA-2015-15 Winding Oaks Cluster Subdivision – Zone Change request for a cluster subdivision with twenty-nine (29) residential cluster lots, one preserved tract, and two (2) non-buildable HOA lots on 150.51 acres zoned A-1, located on the south side of Ironworks Road east of Cane Run Road. PUBLIC HEARING

Mr. Perkins summarized the status of the application, stating that Mr. Simpson intended to cross-examine the witnesses. However, the witnesses are not present.

Chairman Jones stated that four Planning Commission members were not present at the July meeting when extensive testimony was heard. There was discussion about those members not being allowed to vote on the application.

Commissioner Wiseman registered a formal objection to the decision that the four members who were absent at the July meeting be excluded from voting. He stated that 1) he knew of no other situations where one is required to demonstrate a knowledge of the issues in question before voting, and 2) he feels that the four absent Commissioners probably have sufficient information from prior meetings to be knowledgeable enough to vote.

After discussion, **motion by Mizell to overrule the Chair and to allow full participation of all nine members in the voting on Winding Oaks Cluster Subdivision.**

Bruce Simpson, representing the opposition, objected to allowing the members who were not present at the June 9, 2015 meeting to vote because the application was advertised as a new application and extensive testimony was heard on all issues.

Commissioner Holland felt that the absent Commissioners are not informed enough of the testimony heard on June 9.

Bruce Lankford, representing the applicant, felt that it should be a matter of individual discretion about whether a Commissioner should be allowed to vote.

The above motion by Mizell was seconded by Wiseman. By roll call vote, motion carried 5-3 with Holland, Smith, and Sulski dissenting.

Since there were no expert witnesses for Mr. Simpson to cross examine, Chairman Jones closed the public hearing.

Mr. Simpson renewed his motion and objection that the applicant introduced evidence by way of written documents, one of which, the geotechnical report, was not amended from the report submitted for the original application, despite the radical change in the development plan. He stated that the same holds true for the traffic report and the stormwater report. He wished to question the witnesses about their reports, and felt that the only way to resolve the case is for the Commission to deny the application based on evidence that would be legally considerable for this application.

He also objected to the expert witnesses not being present. He stated that at the June meeting, Mr. Lankford indicated he was going to bring the three witnesses, and the exclusive purpose of this meeting was to give him the opportunity to cross examine those witnesses. He asked the Commission to seriously consider that failure in evaluating what their decision will be.

Mr. Lankford asked that Mr. Simpson's comments on the merits of this application be stricken. He stated that the current application is for the same property, same number of acres, same rezoning request, same roads, number of lots, number of cars and people. Two changes were made to the application, and the witnesses stated that those changes would not change their reports. Mr. Kane also did not change his staff report, which recommends approval.

Chairman Jones asked if the Commission wished to postpone the application again in order to allow Mr. Simpson to cross examine the witnesses. Commissioner Shirley stated that he wished to move on with the application. Mr. Lankford stated that if the Commission wishes, he will bring the witness to the September meeting.

Commissioner Holland felt that the application had not been sufficiently changed from the previous application to warrant cross examination of the witnesses, and that the number of proposed units is minimal compared to the hundreds of houses already existing on these soils and accessing this road. She felt it is appropriate to take action on the proposal at this meeting.

Commissioner Holland reviewed ten findings by Mr. Simpson, and addressed by the applicant and staff, from her notes from the June meeting for the benefit of the previously absent Commissioners. She felt that all findings were resolved favorably and wished the Commission to take action.

Mr. Perkins suggested that a motion to strike from consideration any update that was not subject to Mr. Simpson's cross examination be made. That will make it clear that the additional information is not what is supporting any decision made tonight.

Commissioner Smith felt that cluster subdivisions are preferable to five-acre tract developments; however, there seems to be a proliferation of cluster subdivision in that area, which may not be desirable. He felt that the stormwater issue will not negatively affect Lancelot Subdivision.

Commissioner Shirley agreed that there is a concentration of cluster subdivisions on Ironworks, but stated that the cluster subdivision ordinance would have to be changed somehow to prevent that, and then fairness to farmers comes into play.

Commissioner Smith felt that going forward, the Comprehensive Plan needs to be closely examined and rewritten to reflect the wishes of the community and provide protection for farmers.

Chairman Jones agreed, stating that extensive community dialog needs to take place and legislators on the local and state levels need to be contacted during the upcoming Comprehensive Plan update.

Motion by Holland, second by Moran, to strike from consideration any additional testimony that was not subject to Mr. Simpson's cross examination. By roll call vote, motion carried 8-0.

Motion by Shirley, second by Holland, to approve the zone change request based on the staff report and its compliance with the Comprehensive Plan and the cluster subdivision ordinance. By roll call vote, motion carried 5-3, with Smith, Moran, and Wiseman dissenting.

PDP-2015-21 CNG Fuel Station – Preliminary Development Plan for the construction of a compressed natural gas (CNG) vehicle fueling station, located on the south side of the Cherry Blossom Way Spur.

Commissioner Mizell recused herself from discussion and voting on this application.

Mr. Summers reviewed the staff report, including the location of the fuel dispensers, access, and circulation. He stated that the applicant is requesting a waiver to eliminate the sidewalk along Cherry Blossom based on the fact that there are no existing sidewalks along the spur and the nearby businesses cater to the motoring public.

He reviewed the landscape plan, including the waiver to allow the required interior trees to be planted elsewhere on the project site.

He then reviewed the safety features that will be installed in the event of a vehicle veering off the drivable area. He addressed parking and the waiver to eliminate the interior landscape area.

Commissioner Holland asked if the Fire Department has approved the plan. Mr. Summers stated that both the Fire Chief and the Emergency Management Director have approved the project.

Chairman Jones expressed concern about the waiver of the sidewalk requirement. He stated that the number of pedestrians on Cherry Blossom is increasing and eventually sidewalks will be needed. Mr. Summers agreed that sidewalks are needed on Cherry Blossom, but stated that this project is not on Cherry Blossom, but the Cherry Blossom Spur. Chairman Jones asked who will be responsible for constructing sidewalks if they are not required when applications are approved. Mr. Summers replied that either the City or County, or possibly grant funding could be obtained.

Commissioner Smith asked what type of vehicles will be using the fueling station. Mr. Summers stated the applicant indicated that there are some company fleets that are switching to compressed natural gas fuel, and more of these stations may be located along interstate corridors.

Rob Jess, American Natural Gas, stated that the station is designed for tractor trailer trucks, although it is opened to the public. He explained the difference between compressed and liquified natural gas.

Commissioner Moran asked if there will be someone on site in case of an accident. Mr. Jess replied that it will be an unmanned station, open 24/7 and monitored remotely, which is industry standard. He then described the compression process and safety record.

Commissioner Holland expressed concern about increased traffic. Mr. Jess stated that they expect to serve pass-by trucks on a regular route, not attract traffic from other areas. If there is not easy access because of too much traffic, it will hurt their business.

Commissioner Sulski asked if the safety features comply with all applicable Kentucky State fire and building codes. Mr. Jess replied that they do comply.

All those intending to speak before the Commission were sworn in by Mr. Perkins.

Carlene Sharpe, Cherry Blossom Way resident, expressed opposition to the project because of the truck traffic. Mr. Perkins stated that the problems described by Ms. Sharpe are 1) a State issue to improve the spur, and 2) an enforcement issue. Ms. Sharpe also stated that the trucks sitting at the fueling station will be loud.

Requesting the State to make improvements on the Cherry Blossom Way spur was discussed.

Rodney Pyles, Cherry Blossom townhome resident, expressed concern about traffic.

Roy Cornett, concerned resident, stated that according to the neighboring property owner, neither the State nor the County claim the road.

Chairman Jones asked how noisy the compressors are. Mr. Jess stated that they do make noise, but he did not think it will be noticeable with the background noise of the traffic on Cherry Blossom. Mr. Summers stated that the landscaping will help mitigate some of the noise impact to the south.

Mr. Jess asked for a waiver to not install the 6' hedge on the southern boundary because it will be in front of a tree line and not serving any purpose. He stated that if the trees are ever removed, they will install the hedge. Mr. Summers stated that there is a good amount of shrubbery in the area with the tree line. He wouldn't be opposed to a waiver; however, he would add that, if there are complaints from the neighbors to the south, the shrubs be installed then.

Chairman Jones felt that any landscaping that can be moved to the western border to help buffer Ms. Sharpe would be appreciated.

Commissioner Smith asked if the entire 3-acre lot will be mowed. Mr. Jess stated that it will be mowed around the improved areas, but the back it will remain natural.

Motion by Smith, second by Sulski, to approve the Preliminary Development Plan subject to the eight (8) conditions of approval and including the three (3) requested variances. Motion carried.

PSP-2015-22 Golf Townhomes of Cherry Blossom, Phase 5 – Preliminary Development Plan and Subdivision Plat for 29 single-family and townhome units, located east of Riviera Drive, west of Lanes Run Creek, northwest of Old Oxford Road.

Commissioner Moran recused himself from discussion and voting.

Mr. Kane reviewed the staff report and briefly reviewed the surrounding phases that have been approved. He addressed front yard setbacks and lot sizes, recommending that a minimum 50' width be maintained to be in keeping with earlier phases. He stated that overall density is much lower than what was approved, and the lots follow the concept plan that was approved.

Regarding the requested variance to reduce the size of the single-family lots to 5,000 sq. ft., he stated that the PUD zoning allows for smaller than the standard lot size. He noted an additional variance to increase from 40% to 49% the lot area that can be built upon for the townhome units.

He addressed the traffic improvements that are recommended by the Northeast Georgetown Traffic Study, and a possible construction entrance so that construction traffic does not funnel through existing neighborhoods.

Discussion continued on a construction entrance.

Rory Kahly, representing the applicant, agreed with the eleven (11) conditions of approval and the four variances (includes the variance regarding increasing the buildable lot area for townhomes).

Commissioner Sulski expressed concern about the gate at Shadow Creek Path, feeling that it should be removed after construction. Mr. Kahly stated that the applicant agrees, adding that if the townhome residents who are a part of the private street section wish to install a security gate or something similar, that would be a separate application submitted to the Commission for approval.

Mr. Kahly stated that if a construction road is required, the developer would have to construct a road approximately 3,000 ft. long to get from Old Oxford Road to this site. He stated that Ikebana Drive is a commercial road and has been designed to handle

bigger, heavier trucks. Mr. Combs stated that Mr. Kahly is correct, and that directing heavy trucks to Old Oxford Road could make it more unsafe than it is already.

Glen Hoskins, one of the applicants, stated that they are approximately one-third of the way through the project. When the next phase comes before the Commission, the 100 unit threshold will have been met and they will build the road to Old Oxford. He asked that the road not be required with this phase.

Commissioner Jones asked if the Fire Chief has approved the plan. Mr. Kane stated that he has.

Paul Kemper, Riviera Drive resident, asked the Commission to consider the impact of adding 50 cars per day on Ikebana. He stated that the only two access points to the entire development terminate on Connector Road, and that when Toyota changes shifts, traffic will be stopped from Applebee's to Tractor Supply. He felt that the new interchange will not improve the traffic problem on Connector, and asked the Commission to place a moratorium on any further development in the Cherry Blossom subdivision until there is a traffic solution.

Chairman Jones was not supportive of further development in the area because of the traffic problem. Mr. Perkins stated that the applicant was given a requirement, and they're meeting that requirement. Requiring another traffic study was mentioned.

Mr. Hoskins addressed the traffic problem, stating that a large part of the problem is because of developments approved after Cherry Blossom was approved, and that this is just another step of a previously granted zone change. He did not feel requiring another traffic study would be appropriate.

Commissioner Shirley opposed the variances reducing the setback and the minimum lot width. Mr. Kahly stated that the 50' width and 20' setback variances have been approved in previous phases. Mr. Perkins stated that the Commission would need to show a finding why those variances are not appropriate now. Discussion continued on approving more units, especially on smaller lots, when traffic is such a problem. Mr. Kane stated that he can obtain recent traffic counts to compare to previous counts and determine if there has been an increase in traffic in the area.

Motion by Wiseman, second by Sulski, to continue the application to the September meeting so that staff can obtain recent traffic counts and further study the matter. Motion carried.

PDP-2015-23 Hill-n-Dale Preliminary Development Plan – Preliminary Development Plan for 295 apartment units on 24.56 acres zoned R-2 PUD, located at 252 McClelland Circle.

Chairman Jones, Commissioner Shirley, and Commissioner Caldwell recused themselves from discussion and voting.

Ms. Chan reviewed the staff report, noting issues regarding density and access. She stated that the proposed plan is very similar to the concept plan that was submitted at the time of the zone change in April, 2015. She noted the existing variance on the site that was granted at the time of the zone change, which is to allow up to 28 units per building, rather than the standard of six units. All other standard requirements have been met.

She addressed the access road to the pump station, the substantial pedestrian sidewalk circulation within the development, adequate vehicular use spaces, and parking. She recommended extending the northernmost sidewalk out to the intersection at McClelland Circle, and with the State's approval, provide crosswalks on McClelland Circle since there is an existing stoplight there. This would provide safe pedestrian travel to the Kroger Marketplace and other businesses.

She addressed the potential access to Bevins Lane. Regulations state that developments with over 100 units are required to have a second access point. A second access along McClelland Circle would not be helpful. A condition of approval requires the Bevins Lane connection; however, in the absence of an agreement with that property owner, a stub street could be built along the Bradley property for future development on that site.

She then reviewed the landscaping, which will comply with the new ordinance that reduces the number of required trees, but includes canopy standards. She also provided a photograph showing a building design similar to that proposed.

She noted that she amended condition #5 regarding access to Bevins Lane to state that the applicant will build the infrastructure to the extent that they have power. If an agreement can't be obtained from the Bevins Lane property owner, then a stub to the Bradley property will be built.

Ms. Chan then stated that when the previous zone change (2012) was approved for this site, one of the conditions was that a multi-use trail would be built through the site during construction of the development. During the recent zone change (2015), the condition was changed to require the construction and responsibility of construction to be determined at this meeting with review of the Preliminary Development Plan. She presented staff's preferred recommendation, which would be to expand an existing sidewalk that is shown on the plan from 6' to 8' wide from the traffic light through the center of the development. How and where that path would be connected to the Greenbelt properties would be determined later. Locating the trail through the center of the development would provide easy access to the residents. Another option would be

what is shown on the east side of the plan as a future trail, but it is not yet dedicated as an actual easement. She recommended that if option two is chosen, an actual easement be required. She felt that construction of the trail should be required because the PUD zoning has given the applicant some advantages, including allowing larger buildings. To balance the advantages, requiring the trail would provide a good resident and public amenity. She also stated that if option two is selected, the trail on the northern side of the development should be located within the site so that the land can be dedicated.

She recommended approval with the conditions, and stated that landscaping requirements will be worked out with Mr. Kahly by the Final Development Plan submittal.

Commissioner Wiseman preferred the eastern location of the proposed trail because of the adjacent open area behind the church. Ms. Chan stated that the central location would be similar to the trail in the Anderson development off Lemons Mill Road.

Nick Nicholson, representing the applicant, stated that there are issues with the secondary access being through the church property and Bevins Lane. They will work with the property owner, but possible future access to the west through the Bradley property is preferable.

Mr. Nicholson agreed with Commissioner Wiseman regarding location of the trail. He felt there are too many unknowns regarding design and future tie-ins, and does not wish to build a trail to nowhere through the heart of the development without further information on how it will function. He felt that it is a safety issue, asking pedestrians and bicyclists to mix with cars. He also stated that it is a security issue for the development, and a maintenance issue if it is tied to State funds.

Jerrold Barnard, General Manager of Hill-n-Dale (owners of the property), stated that there is a natural area and an easement road to the pump station that follows option two for the location of the trail. He stated that they also own property behind the church all the way to Etter Lane, and when they agreed to the trail, it was meant to be along Cane Run Creek in the Conservation zone.

Commissioner Sulski asked if this trail will connect to the Legacy Trail. Ms. Chan replied that it will not connect to the Legacy Trail, but a trail within the Greenbelt has been planned for some time.

Location of the trail was discussed. Commissioner Shirley stated that locating the trail through the middle of the development would cause liability problems. Mr. Perkins stated that if option two is approved (on the east side), option one will be built also, albeit only for the residents. Mr. Combs stated that, as part of the PUD concessions, the developer could be asked for funds to help construct the trail when it is ready to be constructed. Mr. Nicholson stated that there is no entity to which to transfer funds. He stated that they could put a note on the plan dedicating funds for a trail.

It was agreed that the easement for the trail would be 20 feet wide for an 8' wide pedestrian trail.

Motion by Wiseman, second by Smith, to approve the Preliminary Development Plan subject to the nine (9) conditions of approval, and including the existing variance, and option two which approves the trail location on the east side of the development. By roll call vote, motion passed 6-0.

FSP-2015-24 Hill-n-Dale Final Subdivision Plat – Final Subdivision Plat for a parcel of 24.56 acres from a parent tract of 124.68 acres currently zoned A-1 and R-2 PUD, located at 252 McClelland Circle.

Ms. Chan stated that the reason for the subdivision plat is subdivide the 24.56 acres from the parent tract and so that the trail easement approved on the Preliminary Development Plan can be added to the plat.

Commissioner Smith asked about the fencing requirement for developed property adjacent to agricultural property. Ms. Chan stated that the greenbelt has additional requirements and they will be working with the applicant on those.

Motion by Mizell, second by Moran, to approve the Final Subdivision Plat subject to the six (6) conditions of approval, including the easement discussed in condition #6 being 20'. By roll call vote, motion carried 6-0.

The meeting was then adjourned.

Respectfully,

Rob Jones, Chair

Attest:

Charlie Perkins, Secretary