

# PLAN COMMISSION MINUTES

Monday, April 25, 2011

7:00 P.M.

## A. ROLL CALL

Members Present:

Mike Hall– Chairman  
Dennis Kraus, Jr.  
Russell Beiersdorfer  
Mark Lehmann  
Mike Hornbach  
Daniel Lansing  
Jeff Hughes  
Jake Hoog

Arnold McGill – Attorney  
Mark McCormack – Director of Planning

Members Absent:

Ken Nelson

## B. ACTION ON MINUTES

Mr. Beiersdorfer makes a motion to approve the February 28, 2011 minutes as written. Mr. Lehmann seconds. All in favor. None opposed. Motion carries.

## C. OLD BUSINESS SCHEDULED TO BE RE-OPENED

There was no business to discuss.

## D. OLD BUSINESS TO REMAIN TABLED

- Request:** Vacate a portion of Happy Hollow Road.  
**Applicant:** Rob Seig / Owner: David Lykins  
**Site Location:** Happy Hollow Road  
**Legal:** Sec.5,6,8, T 6, R 2, Map # 05-05,05-06,05-08, Parcel # 008, 008.001, 004, 012, & 001  
**Township:** Jackson & York Size: 5.169 Acres  
**Zoning:** Agricultural (A)

## E. NEW BUSINESS

- 1. Request:** Primary Approval with Waivers for a 15-lot re-plat of Whitewater Point Subdivision.
- Applicant:** JDJ Surveying & Engineering /Owner: Whitewater Point, LLC and Jeff & Beth Viel
- Site Location:** Chappelow Ridge Road
- Legal:** Sec. 8&9, T7, R1, Map #01-08 & 01-09, Parcel #059, 060, 061, 062, 027, 028, 029, 030, 031, 032, 033
- Township:** Logan      Size: 127.629 Acres
- Zoning:** Agricultural (A)

Mr. McCormack states that the Applicants are seeking to re-plat the Whitewater Point Subdivision so that the resulting development consists of a total of 15 “buildable tracts.” The current Primary Plat for this subdivision—which consists of 8 “buildable” tracts—was approved by the Plan Commission in September of 2008. He explains that the Applicants intend to construct a private street to serve as the primary form of ingress / egress into the subdivision. This proposed private street would require the Waivers with respect to:

1. The length of the proposed the proposed dead-end private street—which exceeds the 1200-foot ordinance requirement by 1215 feet (see Article 3, Section 305N of the Subdivision Control Ordinance)
2. The width of the proposed private street—which is 4 feet less than the 20-foot ordinance requirement (see Article 3, Table 3.1 and Sections 305F and 305P of the Subdivision Control Ordinance)
3. The size of the cul-de-sac—which is 10 feet less in both pavement diameter and right-of-way radius than the ordinance requirement (see Article 3, Section 305N and Appendix C of the Subdivision Control Ordinance)
4. The number of lots permitted on a private street—which exceeds the ordinance requirement by 7 lots (see Article 3, Section 305P of the Subdivision Control Ordinance)
5. The percentage of panhandle tracts allowed in a subdivision—which is 12% higher than the ordinance requirement for a Major Subdivision (see Article 3, Section 315 of the Subdivision Control Ordinance)

Mr. McCormack further states that the Applicants are seeking to have the ordinance requirement regarding the submittal of Preliminary Report(s) from the Dearborn County Health Department (that demonstrates approval for Individual Sewage Disposal Systems for each lot) Waived or deferred until such time that the re-plat concepts are acceptable to the Plan Commission, if applicable. Mr. McCormack reviews the staff report and shows slides.

Mr. Randy Maxwell, of Maxwell Development explains that the original proposal contained public sewer service provided by St. Leon Sewer and a connecting roadway from Barber Road to Chappelow Ridge Road. After further research, Maxwell felt that the connection of the two roads would create a thoroughfare through the development—which is no longer the preferred scenario. He states that tonight Maxwell is proposing 7 additional, lots (with an average of five acres) with septic systems.

Maxwell would like to have a gated entrance from Chappelow Road, accessible by punch pad, and designed with a breakaway gate for emergency access. Mr. Maxwell also explains that he had no idea this new design would be this complicated, and that the panhandle requests are only being proposed in order to work with the original layout of the development. He suggests that community officials and staff review the private street standards and restrictions, since there has never been (even) a single development approved without waivers from the County's current Ordinance.

Mr. Hall states that he is concerned with the previous approval agreement that there would be no further lot splits (motion made by Ken Nelson at September 2008 public hearing) in this Subdivision. He also asks why this proposal involves a smaller cul-de-sac ball. He would also like to know where Lot 3 of Barber Acres is located.

Mr. Maxwell states that he does not remember an agreement from the September 2008 meeting regarding 'no further subdividing', and that this may be the reason he is appearing here tonight. He explains that Lot 3 was part of a replat of Lots 11-13 of Barber Acres in order to accommodate Riverview Lane, which crosses Lot 3 by easement. He further explains that the cul-de-sac reduction is being proposed with the thought that the proposed road is a private street with limited access; the waiver would preserve space and limit disruption.

Mr. Jeff Stenger, of JDJ Surveying and Engineering, clarifies that the Applicants are here tonight, in part, to request a re-plat that allows additional subdivision on the subject property.

Mr. Hoog asks if Lots 21 & 22 could be accessed by Riverview Lane. He also asks, whether children would have to go to the public road in order to catch the bus—since the proposed road is to be privately-maintained.

Mr. Maxwell states that the only access for Lots 21 and 22 are from the top of the development due to the topography. He further states that any children in the development will have to be driven or walk to their bus stop on Chappelow Ridge Road (at the current turnaround at the end of the road).

Mr. Beiersdorfer asks about the type of gate proposed for the community. He expresses concern about emergencies.

Mr. Maxwell states that the gate is designed to be a breakaway gate.

*Open public comment.*

Mrs. Helen Kremer, adjoiner, states that she is concerned with the amount of waivers being requested tonight, with particular concern towards the restricted access to the proposed development from Barber Road via Riverview Lane. She reviews the history of the development and states that the Zone Change that was granted in 2005 hinged on the approval of a proposed road from Chappelow Ridge Road to Barber Road. She states that there were several studies performed regarding how to construct this proposed connecting road; one study showed expensive stipulations in order to construct, while another showed the idea of a hillside road failing—at which point the County decided it did not want the responsibility of maintaining this road and announced it could not take it into public maintenance. She states that the developers then requested the Zone Change be voided and that they be allowed to separate the entire project into two separate developments. An 8-lot development was then approved for Barber Road and an additional 8-lot development was approved for the top of Chappelow Ridge Road. She feels that at that time, private driveways were approved as roads, which were not held to any road standards, and this creates serious liability for the County and emergency rescue crews. Mrs. Kremer further explains that another concern, obtained from previous studies, is with the erosion occurring on Barber Road, which may require the road to be shifted to the west in the future to accommodate the Whitewater River. She presents pictures of flooding in the Barber Road area to the Board.

Mr. Hall asks Mrs. Kremer if she would be okay with this development, if the access proposed from the top of the hill to the bottom of the hill would be eliminated.

Mrs. Kremer states yes.

Ms. Kathy Scott states that her concern is with the proposed access to Barber Road—and the safety issues it would cause. She feels that the seriousness of this request tonight is more than just some waivers being asked. She states that Chappelow Ridge Road cannot handle 150 additional trips per day and she feels that there is potential for this proposal to grow into a full connector road in the future. She agrees that the County should not be responsible for any gated community and feels a cul-de-sac reduction would not be appropriate. She states that issues that have been mentioned by the developer regarding trespassing increase concerns why an access should not be constructed to connect to Barber Road.

*Close public comment.*

Mr. Stenger addresses the concerns and states that the public roadway that was originally planned to connect Chappelow Road with Barber Road is not being built due to liability concerns. He explains that there is only 200ft. of new road that is being constructed on Barber Road, and he reminds the Board that the main access up to Chappelow Ridge Road has been in existence for many years. He further states that there will be no public on this road; this is all a private access within a gated community. He also states that all the lots have frontage off of Chappelow Ridge Road or the interior private street and that the proposed access from Barber will only be utilized as a secondary access for the development. He feels that having a 15-lot property owners association is better than having an 8-lot association.

Mr. Jeff Beier asks that the proposed asphalt road be put in writing if this application is approved this evening.

Mr. Hughes asks for clarification regarding the existence of a 'main road.'

Mr. Stenger states that there has always been a private driveway/roadway made of creek rock that runs through this property. He remembers using this road, with his father, when he was a child.

Mr. Hughes states that as a private drive the access can be limited. He asks who will have ownership of this road.

Mr. Stenger states that the lot owners will have ownership and easement rights. He also states that the access will be limited due to the installation of a gate.

Mr. Lansing asks who oversees the emergency runs to this development; and would they be using this access in the event of an emergency.

Mr. Stenger states that the New Trenton Fire and EMS would service this area. He feels that a first response and / or brush truck will be able to navigate this road—but ultimately it is up to the department(s) to decide if they wish to use the access or not.

Mr. Hall asks where the gate off of Chappelow is going to be located.

Mr. Maxwell states that there is only one gate and it will be located at the cul-de-sac at the end of the public road.

Mr. Hornbach asks what the width of the proposed Barber access would be.

Mr. Stenger states that the road would be approximately 12ft. wide with passing bubbles located along it.

Mr. Hoog asks if the entire road will be paved to the top of the hill. He also states that he would like to see a 20ft. wide road that does not narrow.

Mr. Hughes asks why the road cannot be a 20ft. road. He feels that cars can pass better with a 20ft. road. He is concerned with the safety of this access.

Mr. Maxwell explains that the road is tapered down to 12ft. in some areas. He also states that the road would be a concrete road with some portions that are blacktopped. He feels that once the property owners association is set up, then they can do with the road as they wish; they could build a future public road or could close off the access to Barber Road completely.

Mr. Lehmann states that a wider, paved road attracts speeders. He feels that for this proposal a narrow road would slow traffic through the development, making it safer, since this is a gated community.

Mr. Hughes makes a motion to approve the primary plat with the following requested waivers being granted: 1) length of a cul-de-sac, 4) number of lots permitted on a private street, 5) percent of panhandles, 6) Preliminary Health Report submitted during Secondary Approval. With the conditions that the road be paved for Whitewater Point and that access be denied from Riverview Lane to Barber Road. Waivers being Denied are as follows: 2) width of the proposed street, 3) reduced cul-de-sac radius. Mr. Beiersdorfer seconds. Mr. Hughes, Mr. Beiersdorfer, Mr. Hornbach in favor. Mr. Lehmann, Mr. Hoog, Mr. Kraus, Mr. Lansing opposed. Motion fails.

Mr. Maxwell expresses concerns with the current road standards and feels that changes need to be made to the Ordinance.

Mr. Kraus makes a motion to grant primary approval with all waivers requested: 1) length of a cul-de-sac, 2) width of the proposed street, 3) reduced cul-de-sac radius, 4) number of lots permitted on a private street, 5) percent of panhandles, 6) Preliminary Health Report submitted during Secondary approval and with the condition that the roads / access drives be paved. Mr. Beiersdorfer seconds.

Mr. Lansing asks what happens if Riverview Lane is not addressed.

Mr. Kraus states that the Ordinance does not address this type of request, which is considered a driveway.

Mr. McCormack explains that since Riverview Lane is considered a driveway, the Highway Department would be issuing the driveway permits for access to the lots, and if a concern arises then the County Highway Department can restrict access.

Mr. Kraus amends the motion that Riverview Lane not be allowed as ingress/egress due to safety concerns. Mr. Beiersdorfer agrees to amendment.

All in favor. None opposed. Motion carries.

MOTION:

Mr. Kraus makes a motion to grant primary approval with all waivers requested: 1) length of a cul-de-sac, 2) width of the proposed street, 3) reduced cul-de-sac radius, 4) number of lots permitted on a private street, 5) percent of panhandles, 6) Preliminary Health Report submitted during Secondary approval—with the condition that the proposed private street be paved and that Riverview Lane not be allowed as ingress/egress onto Barber Road due to safety concerns associated with its steepness and narrowness. Mr. Beiersdorfer seconds. All in favor. None opposed. Motion carries.

## **F. ADMINISTRATIVE**

Mr. McCormack gives a brief update on:

- OKI Water Quality Management Plan
- Reminder regarding the May 18<sup>th</sup> Zoning Committee Meeting

The Plan Commission was apprised of Commissioner Hughes' recent introduction of a draft proposal regarding the creation of a 'Private Real Property Rights Preservation Ordinance' at the April 19<sup>th</sup>, 2011 Board of Commissioners meeting. The Plan Commission requested that the staff set up a joint meeting with the County Commissioners to discuss the proposed ordinance, and related items.

Mr. Beiersdorfer makes a motion to adjourn. Mr. Kraus seconds. All in favor. None opposed. Motion carries.

Meeting adjourned at 9:37 P.M.

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Mike Hall, Chairman

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Mark McCormack, Director of Planning & Zoning