

PLAN COMMISSION MINUTES

Monday, November 23, 2009

7:00 P.M.

A. ROLL CALL

Members Present:

Mike Hall - President
Dennis Kraus, Jr. – Vice-President
Mark Lehmann
Jake Hoog
Mike Hornbach
Dan Lansing
Ken Nelson
Ralph Thompson
Russell Beiersdorfer

Mark McCormack – Director of Planning
Arnold McGill – Attorney

Members Absent:

None

B. ACTION ON MINUTES

Mr. Thompson made a motion to approve the October 26, 2009 minutes, as amended. Mr. Nelson seconded. Mr. Hoog, Mr. Lehmann abstained. Mr. Thompson, Mr. Nelson, Mr. Hornbach, Mr. Lansing, Mr. Beiersdorfer, Mr. Kraus in favor. None opposed. Motion carried.

C. OLD BUSINESS SCHEDULED TO BE RE-OPENED

There was no old business.

D. OLD BUSINESS TO REMAIN TABLED

There was no old business.

E. NEW BUSINESS

- 1. Request:** Primary Approval for a 5-lot replat of lot 175 of Villages of Sugar Ridge.
Applicant: Land Consultants/ Owner: McFarland Properties
Site Location: Augusta Drive
Legal: Sec.13 , T6, R1, Map #06-13-304, Parcel #180
Township: Miller Size: .8264 Acres
Zoning: Planned Unit Development (PUD)

Mr. McCormack presents the staff report and shows slides.

No public to comment.

Mr. Nelson made a motion to table this request and move forward with the agenda due to missing service and infrastructure letters. Mr. Thompson seconded. All in favor. None opposed. Motion carried.

- 2. Request:** Zone Change from Agricultural (A) to Residential (R) for multi-family housing.
Applicant: Mike Hall / Owner: Linkmeyer Development LLC & Dearborn Developers LLC
Site Location: Sycamore Estates Drive
Legal: Sec.21, T5, R1, Map #07-21, Parcel #001.900
Township: Lawrenceburg Size: 21.964 Acres
Zoning: Agricultural (A)

Mr. Hall states that he has a conflict of interest and steps down and leaves the room. Mr. Kraus chairs the meeting.

Mr. Thompson states that he has received several calls regarding this request and asks the Board if they wish him to step down. The Board has no problem with him voting. Mr. Thompson remains on the Board.

Mr. McCormack explains that the applicant is requesting to rezone 16 acres from an Agricultural (A) District to Residential (R) District, to permit sixty-four (64) apartment units. He states that the City of Lawrenceburg has been reviewing an annexation proposal involving this particular property—to be effective in 2010 when the U.S. Census-imposed restriction on new annexations lapses. He further suggests that a written commitment and Certificate of Land Use Restriction be filed with the Dearborn County Recorder's Office to ensure that the Applicant's proposed concepts, land uses, and maximum density thresholds will not be modified or exceeded. Mr. McCormack reviews the staff report and shows slides.

Mr. Thompson asks why this is before the Board tonight if it is going to be annexed after January 1, 2010.

Mr. McCormack explains that the applicant is applying for grant money and must have the rezone process completed to apply. He states that the deadline for the grant application is the 2nd or 3rd week of December.

Mr. Hoog asks if there is more land being annexed to the City of Lawrenceburg than the 16 acres presented tonight. He would also like to know if the private drive will be annexed too.

Mr. McCormack states that he is uncertain of the entire annexation boundary; however, the drive is proposed as a private drive and won't be maintained by the City or County.

Mr. Lehmann asks if there are any residential zones adjoining this site. He would also like to know if there are any issues with having a private drive accessed by a city street.

Mr. McCormack states that Tuscany Bay apartments are located in a Residential Zone adjoining the proposed site. He doesn't see a concern with the proposed private drive being accessed by a city street since the annexation will take place in January.

Mr. Thompson clarifies that this request is only being reviewed due to the grant requirements and time constraints.

Mr. Nelson states that during the land use discussions, one of the goals of the plan was to encourage development in developed areas; he feels this proposal is appropriate. He further explains that discussions, of a regional concept, took place years ago regarding the connection of State Road 148 to Wilson Creek Road.

Mr. McCormack acknowledges that a connection has been discussed; it is on the 30-year transportation plan due to funding issues.

Mr. Nelson suggests discussing with the City of Lawrenceburg the possibilities of the connection.

Mr. Thompson states that there have been discussions about parallel roads to US 50; however, slopes are a major issue in advancing any further.

Mrs. Terry Hall, of Mike Hall Land Surveying, states that the applicant is proposing 64 apartments with (4) 2-bedroom and (4) 3-bedroom units. There will be a community center with a picnic area of 2.5 acres to provide a buffer to the adjoining properties, and 3 retention ponds. She further states that there is water and sewer service available since it is already adjoining a residential site. She explains that the geo-technical report will be completed after the design layout and road layout.

Mr. Nelson asks about the necessity of the 3 retention ponds?

Mr. Thompson asks how much fill will be used on the Wilson Creek Road side, which might cause an overburden on the hill.

Mr. Hall enters the room and explains that nothing will be added behind the Wal-Mart site; they will cut and come down the hill. The fill is only being used for the 3 retention ponds. He states that regardless of the river's proximity, the water runoff must still be controlled. Although this seems overkill, it is sufficient to control the water runoff. He explains that the only disturbance will be to put the ponds in and the shelving for the location of the buildings and the rest of the natural woods existing will remain as a buffer to the neighboring community.

Mr. Thompson asks if the entire drive will be one-way or just the loop portion of the drive?

Mr. Hall explains that the loop through the parking area will be one-way and that the cross road will be two-way travel to Florence Drive. He further states that they have had discussions with the City and are looking at a master plan to address the development of the area with connector roads and parallel roads to US 50. At this time there is no timeline, due to ownership constraints.

Open public comment.

Ms. Chris McHenry, adjoining property owner and Master Plan Advisory Committee Member, states that while discussions took place of growth contiguous to developed areas, there were serious concerns with development on steep slopes. Specifically mentioned was the Wilson Creek Road area, and it was recommended to be kept as open space because it is not suitable to development due to its steep slopes.

Mr. Ryan Montgomery states that this development has created a lot of jobs for the community. He feels that Mr. Linkmeyer has been very thorough with his research and steps taken to develop this project. He asks that this proposal be granted in order to help keep feeding people.

Mr. Roger McAdams states that after 1 ½ years of being laid off, he was hired by Mr. Linkmeyer for this project. He feels that development will continue-if not now, then in the future. He asks that this application be approved to secure a living and keep his family going.

Mr. Steve Grooms states that he agrees with what has been said and asks to please keep the jobs in the community.

Mr. Todd Callahan states that he's been out of work for 2 years, and this development is bringing needed jobs to the community. He asks that this request be approved.

Mr. Nick Roth, adjoining property owner, states that he agrees that change can be good; however, Lawrenceburg has seen enough change for now. He grew up in this area playing and fishing in the creek, but things have changed so much that wildlife has diminished. He explains that due to development to the surrounding the area, there is oil residue, trash and erosion along the creek beds and into the farm fields that occurs frequently throughout the year. There is a smaller creek further back that now holds more water and floods whenever it rains. He states that as a hunter he is restrained by law in the amount of wildlife that can be hunted; however, a development of 16 acres is able to come in and disturb the habitat, moving the wildlife away forever. He asks how this can be allowed. He also asks how this will benefit the City of Lawrenceburg to allow increased traffic on US 50, and an increased need for more emergency volunteers and equipment. He suggests speaking to the school and to consider what this will do to the school system, East Central is cutting 40 teachers this coming year, what is Lawrenceburg doing. He expresses concern with the 3 proposed ponds and the amount of water they will retain; the benches that will be cut into the hillside and erosion that the will occur; and the natural landscape that will be left as a buffer to the community. He asks the Board to consider what has been said tonight and thanks them for their time.

Mr. Terry Heath, adjoining property owner, begins by saying that he has known Mr. Linkmeyer for many years and has no hard feelings against him at all. He is here tonight strictly regarding his own property and any development that occurs around it. He states that he was here 10 years ago asking the Board to check the property that Mr. Ellis owned for the proper permits to build in a flood zone, and he was let down by the Board. He explains that there is 2600 linear feet of fill in the floodway, where this proposal and Wal-Mart sits. He has spent 9 years in a legal battle with Wal-Mart regarding this issue. He explains that he had a 10-acre hay field on his property that he had to let go due to the water flow and flooding from the little creek. During the 97' flood he certified an elevation of 82ft. on his property. He states that he is concerned with more development occurring on top that hillside and more erosion and damage below onto his land. He would like clarification if the proposed ponds are landscape, retention, or detention ponds. He had to call the Health Department out to look at his property and test the blue water coming across it; turned out to be overflow from the lake at the Lawrenceburg City Park. He emphasizes that there is no where for this water to run. He can't believe that this proposal will increase the value of his property. He presents the Board with a letter.

Mr. Kraus explains that the storm water retention will be reviewed during the Improvement Plan process, which reviews the building design, landscape design, retention/detention necessities, street design and traffic flow. He also notes that this Improvement process, he speaks of, would only take place in the County if this project is not annexed into the City of Lawrenceburg.

Mr. Heath states that the area for development needs to be in compliance before development occurs, and it is neither in compliance with the Clean Water Act nor DNR for filling in the floodway. Something needs to be done now, then have new development move in and control its part. He states that he doesn't want to lose anymore of his property or his property values. He requests to see the permits for fill and documentation showing this hillside is in compliance with DNR and the Clean Water Act.

Close public comment.

Mr. Thompson states that he is an advocate for smart growth, and feels this project fits because it is contiguous to growth. He states that he has concerns with the steep slope and the time constraints to acquire the approval. He feels that the project is good if it is developed right.

Mr. Nelson states that he views this plan as a part of a larger area to include parallel road connections along US 50. He states that he understands the concern of 20% slopes, however with engineering and development standards of today, in an area of development as this, slopes are being moved away rapidly. He feels there are ways to deal with slopes when the development area contains them on both sides. He also states that the City of Lawrenceburg will have the same development standards as the County does with regard to Rule 5. The issues in the past arose because Rule 5 didn't exist and because there was a lack of enforcement.

Mr. Lehmann states that he would like to see a condition placed that would strongly encourage more inter-connectivity in the future.

Mr. Hoog states that he would like to see a geo-technical analysis prior to making a decision for this project. He feels the project is good for the area since it is contiguous to residential development, but the slope is a concern.

Mr. Hornbach states that the higher density development fits within this area, but the 20% slope does need to be addressed. He suggests looking into this during the Improvement Plan process.

Mr. Lansing states that he spoke to the County Engineer and was told that everything that has been asked of Mr. Linkmeyer for his current developments has always been completed.

Mr. Beiersdorfer states that he understands the concerns with farming, 4-wheelers, and the right to farm act, as it is his livelihood also. He states that Rule 5 has been incorporated and will address most of the concerns of the neighbors here tonight. He feels that there is adequate infrastructure to support this development and with the annexation it will soon be out of the County's hands to act on it anyway.

Mr. Nelson asks if the County Commissioners have any control over the request of a City for a parcel annexation.

Mr. Thompson states that an annexation is handled by City. The residents are able to vote on it, but the County Commissioners have no say or vote. He states that this request is only here tonight to meet the requirements for their grant request, after the annexation occurs the County will have no say in what happens to this development. If no action is taken tonight then the applicant will go through the City during the annexation and receive the proper zoning at that time.

Mr. McGill states that the County has no standing in annexation. He states that the property will be taken in as zoned, but the City can do what they like there after.

Mr. Beiersdorfer asks if the applicant is applying for the grant to develop this property.

Mr. Thompson asks how often this grant is available.

Mr. Linkmeyer states that the grant is to fund this project and it is only available once a year.

Mr. Nelson made a motion to forward a favorable recommendation to the County Commissioners to rezone the property for 64 residential units to be placed on the subject property, based on the following: 1) that geotechnical analysis be performed and provided for the site before the concept plan is approved (at a construction-detail level); 2) that a plan for overall inter-connectivity for the larger area be prepared; 3) that a plan for retention / detention basins be prepared in accordance with State and local requirements; 4) that there be no excavation on the 20% (+) slopes immediately adjacent to the Wilson Creek side of the development area (in accordance with the applicant's proposed cross section); and 5) that the applicant work with the adjoiners to assist with gathering information regarding past development in and around the development area.

Mr. Nelson notes that if this property is annexed into the City of Lawrenceburg, he would like to ensure that the Plan Commission staff will notify City officials of the concerns of the Dearborn County Plan Commission emanating from this meeting; if the subject property remains in the County, then the staff will use these conditions as part of the County's development review process.

Mr. Thompson seconded. All in favor. None opposed. Motion carried.

3. Request: Proposed Article 18 -Wind Energy Conversion Systems - to the Dearborn County Zoning Ordinance.

Mr. McCormack states that in order to address emerging issues with wind structures, and concerns of the Board members, staff has prepared the following draft amendments to the Dearborn County Zoning Ordinance. He states that this proposed Ordinance would create a new Article 18 to the Dearborn County Zoning Ordinance. He reviews the staff report.

Mr. Tim Foor, owner of T4 Construction, states that he promotes solar and wind power and he installed the wind turbine on Chesterville Road, which was the first in the area. He explains that there are 3 areas in looking at wind power. The first class is small with approximately 80ft. towers, the second class would be small mega-watt 250ft towers, and the third class would be large mega-watt 400ft. towers. He explains that the proposed Ordinance addresses the setbacks and areas that are conducive to this use.

Mr. Hall asks if the Building Department has been consulted and had any input towards this proposal.

Mr. McCormack states that he has been in contact with Carl Fryman and together they have worked to address any concerns that the Department might have.

Mr. Hoog asks if there are any decibel ratings.

Mr. McCormack states that Mr. Foor has provided documentation that summarizes each size unit, which does list decibel ratings.

Mr. Hornbach asks if there are any disclosures for property sales explaining these structures so when a property does sell, the buyer knows what they are getting; specifically if they are taken out of service.

Mr. McCormack states that there are no provisions within this proposal at this time, and he would be concerned of how to enforce such a provision.

Mr. Thompson made a motion to give a Favorable Recommendation to the County Commissioners for the proposed Article 18, after properly corrected. Mr. Nelson seconded. All in favor. None opposed. Motion carried.

F. ADMINISTRATIVE

Mr. McCormack gives a brief update on the following:

- Presents the financial guarantee report.
- Town of St. Leon meeting – Zoning and Subdivision Ordinances.
- FEMA flood maps –public appeals

Mr. Nelson made a motion to adjourn the meeting. Mr. Thompson seconded. All in favor. None opposed. Motion carried.

Meeting adjourned at 10:15 P.M.

Mike Hall, President

Mark McCormack, Director of Planning & Zoning