



Butler County Planning Commission

Government Services Center, Conference Room #1
315 High Street, Hamilton, Ohio

Meeting Minutes

MEETING: Tuesday, July 12, 2016, 3:00 p.m.

ROLL CALL:

Present: Charles Bullington, Chair
Steven Brown
G. Coe Potter
Bernard "Buck" Rumpke
Shirley Wiant

Absent: David Baker
Kevin Cooney, Vice Chair
Beth Surber

Staff Present: Peter Z. Acuff, Dept. of Development
Lee Margraf, Dept. of Development
Eric Pottenger, Butler County Engineers Office
Constance Kepner, Butler County Water & Sewer

Meeting opened at 3:07 p.m.

APPROVAL OF MEETING MINUTES:

Mr. Potter made a motion to approve the minutes of the April 12, 2016, regular meeting, as submitted. Ms. Wiant seconded the motion. Motion approved.

AYES: Potter, Wiant, Brown, Rumpke, Bullington

NAYES: None

PRELIMINARY PLATS:

None

FINAL PLATS:

Windsor Estates, Section Five

Section 34, Town 3, Range 3

Liberty Township

Mr. Acuff described the location of this two-part, 49-lot section of the Windsor Estates subdivision in Liberty Township. He reviewed staff comments, which include renaming Heathwood Court, correcting notes on the plat, and relabeling and reconfiguring drainage easements. Subject to the comments, County staff recommends approval of the final plat.

Mr. Brown made a motion to approve the final plat of Windsor Estates, Section Five, subject to staff comments. Mr. Rumpke seconded the motion. Motion carried.

AYES: Brown, Rumpke, Potter, Wiant, Bullington

NAYES: None

RESOLUTION#: 16.45

Sutton Place, Replat of Lots 11 & 13

Section 9, Town 2, Range 2

West Chester Township

Mr. Acuff explained that this case involves the replatting of two vacant industrial lots in West Chester Township. The effect of the replat would be to relocate the boundary line between two existing lots, resulting in two lots after the plat is recorded. Staff comments include minor changes to the plat; subject to the conditions, staff recommends approval.

Mr. Rumpke made a motion to approve the replat for Lots 11 & 13 of Sutton Place, subject to staff comments. Ms. Wiant seconded the motion. Motion carried.

AYES: Rumpke, Wiant, Brown, Potter, Bullington

NAYES: None

RESOLUTION#: 16.46

The Meadows, Section Four, Replat of Lot 110 and Part Lot 111

Section 30, Town 3, Range 3

West Chester Township

Mr. Acuff described this residential replat as the transfer of a small triangular portion of land previously sold from the owner of Lot 111 to the owner of Lot 110. The replat would consolidate the transferred property with Lot 110 to allow the owner to construct an addition on their house and provide setbacks as required by West Chester Township zoning.

The submitted plat meets the requirements of the Subdivision Regulations, so there are no staff comments; staff recommends approval of the replat.

Mr. Rumpke asked if there is a house on Lot 111. Mr. Acuff showed the location of the existing house on Lot 111 and noted the previous lot line between the properties.

Mr. Potter made a motion to approve the replat of The Meadows, Section Four, Replat of Lot 110 and Part Lot 111. Ms. Wiant seconded the motion. Motion carried.

AYES: Potter, Wiant, Brown, Rumpke, Bullington

NAYES: None

RESOLUTION#: 16.47

Mr. Potter recused himself from the discussions for the Summer Hill plat and PUD plan due to a business interest in the property.

Summer Hill (Final Plat)

Section 14, Town 5, Range 1

Oxford Township

Mr. Acuff reminded the Commission that this plat and the following final PUD plan were previously tabled at the applicant's request. He showed the location of the three proposed home sites on the eastern portion of the 85-acre parcel also known as the Beck Property in Oxford Township. There is also a fourth lot proposed of common open space that would contain off-site septic systems for the three homes.

Mr. Acuff reviewed the staff report, noting that a subordination agreement will be needed from the conservation easement to cover the road right-of-way that will be dedicated to the County. Additional clarification of the homeowners' association documents is needed and the name of the subdivision needs to be changed before recording. Subject to the comments, staff recommends approval of the final plat for Summer Hill.

Mr. Rumpke inquired about the ownership of the four lots being platted and the remainder of the property not being platted at this time. Mr. Acuff answered that the three home sites would be

under individual ownership and that the open space lot would be jointly owned by the three lot owners.

Etta Reed from Bayer Becker Engineers, 6900 Tylersville Road, Mason, OH, rose to address Mr. Rumpke's questions. She explained that the overall property is in a family trust; the four lots being platted now would be sold off to a separate developer. The balance of the property will remain under a conservation easement with the Three Valley Conservation Trust.

Ms. Reed also addressed the staff comments for this plat. With regard to the requested subordination, legal counsel for the applicant has been in discussion with the County and BCEO and, in lieu of a separate subordination document, language will be placed on the record plat itself detailing the terms of the easement subordination.

Ms. Reed also questioned the BCEO's request for a performance bond, given that the improvements will be privately constructed and maintained. Eric Pottenger, BCEO, addressed the performance bond, stating that the subdivision regulations require a bond even on private improvements to protect the future homeowners. Ms. Reed proposed placing language on the plat requiring construction of all improvements prior to certificate of occupancy. Mr. Pottenger expressed his reluctance to follow that path in that the Building Department would be tasked with being the sole enforcer of a platting requirement. He stated that the performance bond could be secured with real estate, namely, the balance of the property.

Mr. Rumpke asked about water service to the property. Ms. Reed replied that public water is provided by Southwest Regional Water District.

Mr. Rumpke moved to approve the final plat for Summer Hill, per staff comments. Mr. Brown seconded the motion. Motion passed unanimously.

AYES: Rumpke, Brown, Wiant, Bullington

NAYES: None

RESOLUTION#: 16.48

OTHER BUSINESS:

Summer Hill (Final PUD Plan)

Section 14, Town 5, Range 1

Oxford Township

Mr. Acuff described the submitted final PUD plan for Summer Hill, noting the location of the proposed private drive and septic systems for the three building lots. He reviewed staff comments regarding location and timing of signage and landscaping, submittal of revised

construction drawings for the private drive, and the Board of Health’s request for soil evaluations for the proposed septic systems. Subject to staff comments, staff recommends approval of the final PUD plan for Summer Hill.

Mr. Brown asked about the easement extending beyond the end of the private drive. Ms. Reed replied that the extension was to cover drainage on the site.

Mr. Brown moved to approve the final PUD plan for Summer Hill, per staff comments. Ms. Wiant seconded the motion. Motion passed unanimously.

AYES: Brown, Wiant, Rumpke, Bullington

NAYES: None

RESOLUTION#: 16.49

Mr. Potter resumed his place on the Commission.

ZONE CHANGES:

WCTZ 16-03: The Fields at Liberty Way

A-1 & M-1 to C-PUD
Section 18, Town 3, Range 2
West Chester Township

Mr. Acuff introduced the case, highlighting the location between I-75 and Cox Road, south of Liberty Way. He noted that the applicants are requesting a zone change from A-1 and M-1 to C-PUD to construct two hotels and retain areas for future development at the southern end of the site. He directed the Planning Commission’s attention to the staff comments in their packets.

Mr. Acuff stated that he had received a call immediately before today’s meeting that the County Engineer’s comments regarding the proposed access to the site needed to be revised based on new information. Eric Pottenger, BCEO, addressed the Planning Commission, describing the current state of zone changes and proposed development around the Liberty Way/Cox Road intersection. Taking a comprehensive view of existing and proposed development in the area, Mr. Pottenger stated that BCEO is amending their comments on the current case to request that the Planning Commission table the zone change for a month to allow time to work with adjacent property owners to the south to resolve a joint access between the parcels out to Cox Road. Additionally, the initial recommendation for a two-year temporary full access on Cox Road is being amended to require the access point to the south to be resolved before Planning Commission approval of the zone change.

Mr. Bullington asked if the applicant would like to speak.

Mike Robinette, 5576 Pine Cone Court, Liberty Township, OH, rose to address the Planning Commission as a representative of the landowner. He stated that, prior to closing on the purchase of the property more than a year ago, he had received written confirmation from the County Engineer's Office that a full-movement intersection would be permitted on Cox Road to access the site, with no time limit on resolving the cross-access to the south. After closing, the developers and BCEO have had multiple meetings regarding access for this property, one result of which was the developer's concession to make the initial full-access intersection temporary, replacing it with a right-in/right-out after two years. He expressed his shock and surprise to have arrived at today's Planning Commission meeting to be told that the County Commissioners had asked BCEO to request that the matter be tabled – the first time he had heard that the County Commissioners had any concern about this project. He noted that there have been hundreds of thousands of dollars invested up to this point and that a delay at this point would be unreasonable, requesting that the Planning Commission move forward with the zone change.

Blake Helms, Hi5 Development Services, 202 W. Main Street, Mason, OH, addressed the Commission, concurring with Mr. Robinette that the introduction of the revised comments could not be more ill-timed. Mr. Helms noted that they have met multiple times with West Chester Township and the County, paid for and submitted traffic studies for review, and discussed regional access with the property owners and BCEO. He stated that they are aware that cross-access to the south will have to be addressed in the future when additional development occurs, but that at this time they have been permitted to use the curb cut as it has been proposed and proceeded accordingly. The requested delay could do irreparable damage to the project and for this reason we would ask the Planning Commission to please proceed with the zone change.

Mr. Rumpke inquired as to who was asking for the delay. Mr. Pottenger replied that he was approached by the County Engineer, who had been in touch with representatives from the Commissioners' office in regard to the timing of the access and the potential for only having a partial access to the site.

T.C. Rogers, County Commissioner, stated that he had reviewed the comments from the Engineer's Office and had concerns about what would happen to access on the site if no agreement was reached with the property owners to the south. He would like there to be an absolute option determined at the beginning of the project in case the agreement cannot be reached as planned. He stated that the County wants to see the development succeed, but is concerned that if no agreement is reached, the temporary access would essentially become permanent as no judge would allow it to be closed. Commissioner Rogers said that his concern was that the question of what will happen after the temporary access period expires needs to be addressed up front.

Mr. Brown asked about the existing access for the buildings to the south. Mr. Pottenger replied that there are cross-access easements in place that allow for access to a public road further to the south. The parcels fronting Cox Road only have one way to access their properties and that's through cross access.

Mr. Robinette addressed the Planning Commission again, highlighting comment #11 from the staff report that the temporary full access point would be permitted for a two-year timeframe, after which the developer could request a one-time extension of two years, at the discretion of

the Butler County Engineer. If BCEO turns down the extension request, the access would go away. Mr. Robinette said that he fails to understand what tabling the zone change will do differently in the end as compared to what the developer has already agreed to in the staff comments.

Mr. Rumpke asked if the property owners to the south were agreeable to an access behind their properties. Mr. Robinette replied that he knows that conversations have been had regarding access but that he was unaware of their current status. He reiterated that he doesn't understand why we need to delay this project unnecessarily over an issue that we've already said will be resolved, there's already a plan to resolve it, and I don't understand what another 30 days or more will solve.

Mr. Rumpke asked if the southern access could be built without the cooperation of the existing property owners to the south.

Mr. Pottenger said that he understood the concern of over the access not to be facilitating traffic southward through the adjacent development but rather consolidating access points onto Cox Road and still provide the subject property access at a good location. Who constructs the consolidated access is part of the future development process, but if no agreement can be reached, then the hotels would have just the right-in/right-out onto Cox Road.

Mr. Rumpke asked who sold the developers the property. Mr. Robinette replied that it was the Butler County Transportation Improvement District, after numerous meetings with the BCEO.

Mr. Rumpke asked how much a delay in approvals might cost the developer. Mr. Robinette replied he didn't know, but that his part of the project [one of the two planned hotels] was \$18 million. Mr. Helms commented that they were on track to get their zoning approvals by the end of October; any delays would push construction into the winter season, resulting in significant additional costs.

Commissioner Rogers rose to speak again. He stated that his initial understanding was that after the temporary access period, whether two or four years, the access would be completely closed. He said the he has been told now that there will still be access after the temporary period, but it would be limited to a right-in/right out. Given that there will be some level of access, he withdraws his objections to the plan and defers to the judgment of the County Engineer that the site will work.

Mr. Pottenger restated the conditions of access to the site, per the BCEO agreement with the developer: a temporary, full-movement access onto Cox Road for a period of two years, with the option for a one-time extension of the full access (at BCEO's discretion). If the request for extension is rejected by BCEO, that access point would convert to a right-in/right-out.

Mr. Rumpke asked for clarification that the driveway would be full-access for two years. Mr. Pottenger replied affirmatively and stated that the two-year timeframe would begin at the time of the first certificate of occupancy on the property.

Mr. Brown asked if the existing properties to the south currently had a full-movement driveway. Mr. Pottenger said yes, and that the proposed new access would also be full-movement; it would have to meet traffic warrants, however, before it could be signalized.

Mr. Brown commented that with the money and effort that has already gone into this project, it would be pointless to table the decision and hold things up further.

Mr. Potter asked Mr. Pottenger for clarification on the temporary full movement agreement, then commented that the terms of the agreement seem to alleviate the County Commissioners' concern and that the project seems to be back on track.

Mr. Brown moved to recommend approval of WCTZ 16-03, per staff comments, with the correction to comment 11 that the two-year timeframe would begin at the certificate of occupancy. Mr. Potter seconded the motion. Motion passed unanimously.

AYES: Brown, Potter, Wiant, Rumpke, Bullington

NAYES: None

RESOLUTION#: 16.50

ADJOURNMENT

Mr. Rumpke made a motion to adjourn seconded by Ms. Wiant. All in favor. Meeting adjourned.

These minutes represent a summary of these proceedings and do not purport to be the entire record. A complete transcription of these proceedings was taken from an audio tape under supervision of the Secretary and may be obtained upon written request. Any charges associated with preparing such transcript shall be borne by the person requesting.

Hamilton, Ohio
July 12, 2016

Chair

Secretary