

BUTLER COUNTY PLANNING COMMISSION
Butler County Administration Center
Hamilton, Ohio

RESCHEDULED MEETING: Friday, April 17, 2009; 3:00 p.m.
Butler County Government Services Center
315 High Street, Conference Room 1
Hamilton, Ohio 45011

MEMBERS PRESENT:

G. Coe Potter, Chair
Steven Brown
Charles Bullington, Vice-Chair
Kevin Cooney
Charles Disney
Chris Flaig

MEMBERS ABSENT:

Lynn Nevel
Joseph Tucker

STAFF PRESENT:

David Fehr, Planning Director
Constance Kepner, Butler County Sewer & Water
Lee Margraf, Administrative Secretary
Joseph Schmidt, Senior Planner

CALL TO ORDER:

Mr. Potter called the meeting to order at 3:00 p.m.

APPROVAL OF MINUTES:

Mr. Disney motioned to approve the March 10, 2009 meeting minutes. Mr. Flaig seconded the motion. Motion carried.

AYES: Disney, Flaig, Brown, Bullington, Potter

NAYES: None

ABSTAINED: Cooney

PRELIMINARY PLATS FOR APPROVAL:

Princeton Crossing Commercial Subdivision

Section 3, Town 2, Range 2

West Chester Township

Mr. Fehr showed an aerial map of the plat (outlined in red) and indicated where it is in proximity to State Route 747 and the existing Life Success Center. To the east of the property is a mobile home park built by Holiday Homes; and surrounding the existing piece is industrial and commercial development in West Chester Township.

Mr. Disney asked where Port Union Road is on the map.

Mr. Fehr pointed it out on the map and said there is a signalized intersection at that point.

Mr. Fehr showed a plat map of the property and noted where the existing building and parking lot are located.

Mr. Fehr said staff comments are in the Board members' packets and stated that some of the items were removed in response to staff's review of them last Wednesday and the updated sheet has been provided to the Board members.

Mr. Fehr said there were a couple of comments previously removed, one regarding a building pad location (one of the staff was not quite sure what was on the property), and the other had to do with what we thought might have been a well or cistern and is actually a water meter pit so we removed those two comments.

Mr. Fehr highlighted the comments in the packet: The County Engineer's Office wants a traffic impact study done (item #7), there will be a shared access on these properties (item #10) so there will be controlled access and there will be another entrance up by Sutton Place so there is a 4-way intersection at that point and we are asking for the typical section of that roadway width and the materials that they will use on the final plat.

Mr. Fehr said item #11 came from West Chester Township and there are a couple of billboards on the site and what they showed on this drawing is that the access road sort of jogs around those but the Township prefers that it be shown straight across because a requirement of the Township is that the billboards come down for a building to be installed on that lot.

Mr. Fehr said, regarding item #13, all access to State Route 747 must be approved by Ohio Department of Transportation (ODOT) and the County Engineer's Office and a copy has been submitted to ODOT for their review.

Mr. Bullington said, regarding item #11, where they are jogging the roadway around the signs, he understands they want it to run across and asked if there is another location for the sign to be put out at the road or would the sign be turned 90 degrees – a flat sign facing the road.

Mr. Fehr said it actually is an advertising billboard and the Township wanted to get rid of the billboard and thought there was a zoning issue with that and once that lot gets developed the billboard will have to come down.

Mr. Bullington said there is a note that says, “approximate location of the sign location”.

Mr. Brown said he believes it is for the existing lease for that sign and thinks it is in error.

Mr. Fehr said Mr. E.J. Foltz, petitioner, is here from Abercrombie & Associates if the Planning Commission has any questions.

Mr. Fehr said staff does recommend approval subject to staff comments in the Planning Commission packet.

Mr. Foltz stood before the Planning Commission and said as far as the sign goes, he did check with Holiday Homes (the main owners of the property) and they are in agreement that the billboard sign will come down once the development plan is in place and they did check their lease records, and he also checked it (and said he is not their attorney) and it looks like they can terminate the lease with a sixty-day notice so they don't have any problem with that.

Mr. Foltz said he also included what they think will be a typical section and distributed a copy to each Planning Commission member. He added that what they are trying to do is split this up in to different lots and Mr. Behrmann, West Chester Township Planner, wanted us to show on the preliminary plat which is what we have indicated today Lot #2 is just going to be designated to that Chatfield College and there is no development plans at this time for it and remains pretty much undeveloped until at some point in the future, from what Holiday Homes told him, they do have a potential buyer for Lot #3, he believes it is Schumacher Dugan and they obviously have some type of development plan in the works but he has no idea what that is.

Mr. Foltz said a lot of the comments you see there are what Mr. Behrmann wanted to see on the drawing and we felt the future easement around that billboard sign would change and access to the property it will be a parallel street that will run from their current entrance there (off the northwest corner) it will be a common lane they will use for Lots 2 & 3 and again when the final plan is submitted for Lot 3 it will show how the connection will take place.

Mr. Foltz said according to Mr. Behrmann the access easement will have to be for the benefit of all lots which we have agreed to.

Mr. Disney motioned to approve Princeton Crossing Commercial Subdivision Section 3, Town 2, Range 2, West Chester Township, subject to staff conditions. Mr. Bullington seconded the motion. Motion carried.

AYES: Disney, Bullington, Brown, Potter, Flaig

NAYES: None

ABSTAIN: Cooney

Resolution: 09.12

FINAL PLATS FOR APPROVAL:

North Pointe at Union Centre Subdivision, Section 1,
Section 27, Town 3, Range 2
West Chester Township

Mr. Fehr said he received an email message and a phone call from the developer one-half hour prior to our previous meeting, requesting that this be tabled to the May 2009 meeting as we are still working out roadway issues with the developer and they would like another 30 days and staff is okay with that.

Mr. Brown motioned to approve the request to table the final plat for North Pointe at Union Centre Subdivision, Section 1, Section 27, Town 3, Range 2 West Chester Township until the May 2009 meeting. Mr. Disney seconded the motion. Motion carried.

AYES: Brown, Disney, Bullington, Potter, Flaig

ABSTAINED: Cooney

NAYES: None

Resolution: 09.13

Chesterville Subdivision, Replat of Part Lots 21 & 22,
Section 16, Town 3, Range 2
West Chester Township

Mr. Fehr showed an aerial map of the property and said it's on the east side of Barrett Road and involves the property with the house already on it (as indicated on the map) and they also own this strip of land out back so it is the same owner of both pieces and they want to combine them into one so instead of getting two tax bills they will just get one. He added that staff has no objection to it and recommends approval of the replat.

Mr. Bullington motioned to approve the final plat for Chesterville Subdivision, Replat of Part Lots 21 & 22, Section 16, Town 3, Range 2, West Chester Township. Mr. Disney seconded the motion. Motion carried.

AYES: Bullington, Disney, Brown, Potter, Flaig

NAYES: None

ABSTAIN: Cooney

Resolution: 09.14

Treillage, Section One, Replat Lots 44 & 122
Section 12, Town 2, Range 2
West Chester Township

Mr. Fehr said since there are a couple of new members on the Planning Commission board, he offered to give a brief history on this project.

Mr. Fehr said this subdivision is probably the most unusual in a lot of different ways. The lots in this subdivision are actually circular lots and what has happened over the years is that people would buy a lot and build a home, and the footprint of the building actually becomes your lot, which many people refer to as "landominiums" – so the owner owns the home and the ground underneath the home and then there is a Home Owners' Association (HOA) that takes care of all the exterior maintenance, lawns and things like that.

Mr. Fehr showed a sample plat of the subdivision and said the developer of Treillage had a vision in mind and his idea was that he would buy a piece of ground and walk the property, and wherever there was a nice clearing in the trees or a nice view (where he felt would be a good spot for a house) and he would use satellites and mark that spot then put a circle around it – what people refer to as a "bubble". So he created these bubbles all over the property and we did not know what each house would look like and all would be unique, and custom-built – nor did we know what the footprint

was going to look like, but if the home fit inside this bubble and then at a later date it would be replatted and recorded to match the actual footprint.

Mr. Fehr said the reason why he had to create lots was because if you're in the home building business, you usually can not get a construction loan unless it is tied to a piece of ground or real estate – and that was the thought process behind it, we would create these bubbles or general locations for homes to go and they would build their home and at occupancy they would record the actual footprint and that would become the actual lot.

Mr. Fehr showed another drawing of a mixture of some of the bubbles and some of the existing homes – and said some of the issues that occurred were that the bubbles were not drawn large enough and he thought the homes that got built there were a lot bigger and more expensive than what the developer had intended and he was surprised at how big the homes were that people wanted and that created an issue.

Mr. Fehr said he thought some of the builders took some liberties on where in the bubble the home was built – at first they were supposed to be contained in the bubble then it got to be they were just touching the bubble, so it has been a challenge for all involved.

Mr. Fehr said what we have here is a situation where we have a couple of these bubbles, a house got built and with this replat what they are going to do is this bubble (as shown on the drawing) goes away, the lot line basically becomes the footprint of the house and this bubble here (as shown on map) encroaches on this house ... with this replat and that is what they are asking for today.

Mr. Potter asked Mr. Fehr if the Building Department issued building permits.

Mr. Fehr said all along West Chester Township was issuing zoning certificates and the building permits were issued off of the zoning approval.

Mr. Bullington said some of the houses are not remotely in the bubbles.

Mr. Fehr said he thought that was part of the issue too, we were getting site plans and then you get “as-builts” and those did not match either so there have been a lot of issues with this.

Mr. Disney asked how many homes are there now.

Mr. Fehr said 40 maybe.

Mr. Bullington said 30.

Mr. Potter said he is amazed that this whole thing just did not go away – should have cleaned the whole thing up back then.

Mr. Flaig asked how do you prevent lawsuits – and people there are probably asking which plat do I really own/what is my lot.

Mr. Fehr said that has been a problem and there have been lawsuits.

Mr. Potter said the non-bubble area/area outside the bubbles and outside of the as-built is HOA – so HOA just did not want to sue them.

Mr. Fehr said a developer went bankrupt, there have been suits filed so we are trying to make the best of a bad situation – he added that it is a very unique concept: these are \$500,000 homes and are trying to get out of the conventional subdivision design and try to promote something unique, but he did not think the person with the ideas saw it from all sides.

Mr. Disney asked if basically they were putting a house wherever they wanted to.

Mr. Bullington said so long as it touches a bubble.

Mr. Brown said if it is supposed to be in the bubble or in the area, he thought that someone would have surveyed it and staked it and at that point they should have known they were encroaching that other lot and there would have had to be a location for where those were, even though they are just circles and stated that some of those houses are probably three times the size of the bubble.

Mr. Flaig asked if they move a bubble up, is it being moved on top of something that already exists – and questioned why they would move the bubble if the rule is not going to be followed anyway.

Mr. Fehr said there are owners to those bubbles and they have to agree to this replat and they signed the plats so everyone understands what the situation is.

Mr. Fehr said we have a drawing from the developer for where that is going to go (sheet #4 in packet) and indicated the new location, and said Lot 44 becomes the building footprint and new lot # 123; then Lot #92 becomes Lot #124 and it just shifted slightly to the north.

Mr. Flaig said looking at these drawings and having been up there, we can draw these bubbles but asked if they are even realistic – and how many homes actually fit in a bubble.

Mr. Potter said it doesn't look like any of them.

Mr. Fehr said over the years some of the bubbles have gone away or people have negotiated and would buy two bubbles to protect themselves from building around them.

Mr. Disney asked how many bubbles are there in this whole area.

Mr. Fehr said he did not know off the top of his head.

Mr. Disney said so there is nothing that says a certain amount of bubbles have to be there.

Mr. Fehr said we gave them the maximum but no minimum and they can not add any additional bubbles but can subtract them.

Mr. Fehr said the Township also has open space requirements and so they can't just place buildings on this whole piece and eliminate the green space.

Mr. Disney asked Mr. Fehr if staff is comfortable with this.

Mr. Fehr said we are trying to do the best we can with a bad situation, for lack of a better term.

Mr. Brown said it looks like the whole thing is if they buy a bubble they could pretty much build whatever they want as long as they aren't sitting on someone else's house.

Mr. Bullington said if you bought a lot you would have to meet with the HOA's criteria and most of the houses in there are Frank Lloyd Wright designed and real contemporary.

Mr. Potter said the HOA has to approve the footprint for what will be the as-built drawing.

Mr. Fehr said this is not a place for everybody – you had to actually show them your house plans, what type of materials you will use, the color palette that has to be followed, etc.

Mr. Potter asked then if there is a committee figuring out if it's okay or not okay to put the house there.

Mr. Fehr replied, pretty much yes.

Mr. Flaig said it appears to be building homes that look like art - literally – the idea was to come and build specialized houses and just do it in a region, zone-like basis.

Mr. Flaig asked, when we move that circle up – some time down the road you will likely be back to say another one is outside the bubble as well.

Mr. Fehr replied, right.

Mr. Fehr said the developer owns more land on this side (south side) that is in foreclosure so now they are trying to find a way to do something on the back part. If they continued this concept - and with this piece back here (as shown on the map) it got recorded and the bubble got twice as large too so they learned their lesson on that for what they call Phase II – it got approved on paper but they never built it.

Mr. Brown asked if there are approximately another 40 acres then.

Mr. Fehr said that sounds about right.

Mr. Potter said he did a landminium in Oxford a few years ago – exactly the same procedure basically, except we had very well-defined lots which touched each other and homes had to be built inside the envelope and then re-recorded it and the envelope went away – and if a house didn't fit in it, well, too bad –you could not build it.

Mr. Bullington said this is similar but instead of building it in a box they have a bubble and you have to touch the bubble to build.

Mr. Fehr said he thought it was staff's intent, but as it went along the bubbles were not big enough and then we were getting submitted with building applications did not match as-builts – and that was the real issue.

Mr. Disney motioned to approve the final plat for Treillage, Section One, Replat Lots 44 & 122, Section 12, Town 2, Range 2, West Chester Township subject to staff conditions. Mr. Flaig seconded the motion. Motion carried.

AYES: Disney, Flaig, Brown, Potter

ABSTAINED: Bullington, Cooney

NAYES: None

Resolution: 09.15

ZONE CHANGES FOR APPROVAL:

None

OTHER BUSINESS:

None

ADJOURNMENT:

Mr. Bullington made a motion to adjourn. Mr. Flaig seconded. 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 not possible as the audio cassette tape used to record this meeting was defective.

Hamilton, Ohio
April 17, 2009

Chair

Secretary