



BUTLER COUNTY PLANNING COMMISSION
Butler County Administrative Center
315 High Street, Conference Room #1
Hamilton, Ohio

MEETING MINUTES

MEETING: Tuesday, January 13, 2015, 3:00 p.m.

ROLL CALL:

Present: Charles Bullington, Chair
Steven Brown
Kevin Cooney
G. Coe Potter
Bernard "Buck" Rumpke (arrived at 3:07 PM)
Shirley Wiant

Absent: David Baker
Beth Surber

Staff Present: Peter Z. Acuff, Dept. of Development
David Fehr, Dept. of Development
Constance Kepner, Butler County Water & Sewer Department

Meeting was brought to order at 3:00 p.m.

APPROVAL OF MEETING MINUTES:

Minutes from December 2014 were not available for review or approval.

Mr. Potter made a motion to table consideration of the December Meeting Minutes. Ms. Wiant seconded the motion. Motion passed.

AYES: Potter, Wiant, Brown, Cooney, Bullington

NAYES: None

Mr. Rumpke arrived at 3:07 PM

PRELIMINARY PLATS:

Brenner Woods, Section Eight

Section 8, Town 3, Range 2

West Chester Township

Mr. Acuff gave detailed information on this preliminary plat which proposes 27 new lots on a 16-acre parcel. Mr. Acuff presented an aerial photograph and a plat map of the property and highlighted the staff comments and said staff does recommend approval subject to staff comments.

Applicant, Mr. Jim Schumate, CDS Associates, 1000 Dixie Highway, Florence, Kentucky, said they are the Civil Engineering consultants on the project for Gridiron development. Mr. Schumate said they are in agreement with staff review comments on those points and addressed some of the staff comments and their intentions to address them.

Mr. Michael Gates, Gridiron Development, 4455 Bethany Road, Mason, Ohio, said these lots are the same size/similar to the lots are in the neighborhood and they plan on selling these lots to custom home builders and welcomed to answer any questions.

Mr. Acuff pointed out there are two (2) letters in the Board's binder from neighbors with some objections to the preliminary plat and are in the binder for your review.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: Tom Pernik, 9786 Bennington, West Chester Township; Doug Graham, 7941 Bennington, West Chester Township; James Shuppert, 8046 Chestershire, West Chester Township; Tom Zenge, 7952 Chestershire, West Chester Township; Jerry Redmond, , 7795 Bennington, West Chester Township; Joan Trentman, 7986 New Brunswick, West Chester Township; Cindy Gerard, 7849 Bennington, West Chester Township; Heather Bauer, 7956 Bennington, West Chester Township; Joel Payne, 9820 Bennington, West Chester Township; Carol Detjen, 9718 Bennington, Sharonville.

Mr. Pernick stated his concern this with extending Bennington Drive into McCauly Road and they are very concerned about that and questions the reasoning for that. He said he is concerned about traffic and the chance people with bypass the four-way stop further south and he would like to see them correct the problem and take care of the traffic congestion in that area.

Mr. Graham stated his concern is that McCauly is not designed to handle the amount of access. His concern is over the increase in traffic in the area and feels there is a lot more traffic there than was ever planned and it presents a safety issue for pedestrians in the area.

Mr. Shuppert said he lives on Chestershire Drive and has concerns about storm water drainage in the area and he would like someone else besides Wexford to take responsibility for that detention basin.

Mr. Zenge asked if there will be covenants to be recorded to require that homes will built that are consistent with Wexford as mentioned by Mr. Gates to assure quality homes.

Mr. Redmond asked if Bennington Drive is open will there be a traffic measure on Bennington Drive to compare and doesn't know what that could do later on down the road and asked what the solution is to having that opened up as a real thorough fare.

Ms. Trentman said she would like to suggest a three-way stop plan similar to the three-stop where North Bay meets with Bennington so that it is not a main thorough fare because it currently is a major thoroughfare during rush hour traffic.

Ms. Bauer complained about the short notice about this hearing.

Mr. Payne said there's been a lot of talk about the traffic flow and that has been a problem and falls primarily on Sharonville in the current situation and based on the gentleman's comment it seems prudent to contact Sharonville because the traffic is going to reflect in to Sharonville quite heavily and he hope they will coordinate that with the City Planners of Sharonville.

Ms. Detjen said they spoke to Attorney Tom Keegan about this issue and he knew nothing about it so they need to work with Sharonville on this issue and it will create safety concerns in their neighborhood that they don't currently have and she believes Fields Ertel Road on both sides is the responsibility of Sharonville and that traffic will increase there and they need to alert Sharonville residents about this proposal.

Public portion of meeting closed.

Mr. Potter said there was a question asked of the developer whether there would be any restrictive covenants relative to size, quality of materials, design, etc. on the houses and asked if the developer wants to respond to that.

Mr. Gates said his answer is yes, and they are trying to get through this process first before they get to that but it will be very similar to Wexford – upscale custom homes is what they plan and added there are five (5) different (Home Owners Associations) HOAs in this subdivision so we're not sure exactly which one we'll attached ourselves to but those conversations will occur as soon as they get through this process.

Mr. Bullington said as for the foundation issues that is not something that this Board can do here that's typically has nothing to do with the existing ground that is there but it does have to do with the way a builder built the house most probably. The other issue, relating to traffic,

Butler County typically will periodically do traffic studies but he doesn't know if one (1) has been done on McCauly Road recently or not and staff from the Engineers' Office is not here today so we cannot tell when the last traffic study was done.

Mr. Rumpke commented on the traffic that cuts through and said there are two (2) options to handle that: First is to call law enforcement and complain; and the second would be to put in a traffic light at McCauly and Fields Ertel Road and that intersection is within Sharonville and under Hamilton County's jurisdiction whereas most of the lots here are in Butler County and that is why Butler County is involved with this.

Mr. Bullington said he is familiar with the afternoon rush hour traffic there.

Mr. Acuff said he has been in touch with Development Director over at City of Sharonville and sent him a copy of the plans because of the shaded area is located in Sharonville and asked what they want to do with it so the City of Sharonville has been notified and they are aware of the development and we decided that we will dedicate that small portion of right-of-way over so we are just dealing with Butler County land.

Mr. Bullington said we can't do anything with Sharonville's portion of it.

No other comments and the public portion of the meeting closed.

Mr. Bullington made a motion to approval of Brenner Woods, Section Eight, Section 8, Town 3, Range 2, West Chester Township subject to staff comments. Mr. Rumpke seconded the motion. Motion approved unanimously.

RESOLUTION: 15.01

Brenner Woods, Section Eight (Sidewalk Waiver)

Section 8, Town 3, Range 2

West Chester Township

Mr. Acuff said the applicant has requested a waiver for the sidewalks requirement primarily because there are no sidewalks on McCauly or within the neighborhood for them to connect to and they would like the requirement to be waived. This is a waiver of the Butler County Subdivision Requirements and they will have to go to West Chester Township separately for a variance of their zoning requirements.

Mr. Rumpke asked if the proposed new part of the street the same width as the old part of Bennington.

Mr. Gates said they will have curb and gutter on it and the proposed section is 28 foot wide and not sure what the existing is but believes it does match that and is the current standard for this type of street.

Mr. Rumpke made a motion to waive the sidewalk requirements for Brenner Woods, Section Eight, Section 8, Town 3, Range 2, West Chester Township. Mr. Brown seconded the motion. Motion carried unanimously.

RESOLUTION: 15.02

ZONE CHANGES:

RZC 15-01

Land of Illusion (B-3/A-1 to B-PUD)
8762 Thomas Road
Section 1, Town 2, Range 4
Madison Township

Mr. Acuff gave details on the case and said the applicant is Mr. John Grier, Architect, representing Mr. Brett Oakley, owner of Land of Illusion, and involves three (3) parcels to be rezoned from A-1 and B-3 to B-PUD and showed an aerial image, the Madison Township Land Use Plan map and plat map of the area as to how the applicant wishes to use the land in the future and said the proposed use does conform with the Land Use Plan.

Mr. Acuff said staff has reviewed the application and highlighted staff comments which were mailed out to each Board member in advance of the meeting and said based on the findings staff recommends approval subject to the conditions as written by staff.

Applicant, John Grier, 11309 Deerfield Road, Cincinnati, Ohio 45242, said he is the architect for Mr. Oakley and presented drawings plus the revisions staff requested and said he is in agreement with everything that Mr. Acuff has said. He offered to answer any questions from the Planning Commission.

TESTIMONY IN FAVOR OF: Ray Steele, 8782 Thomas Road, Middletown, Ohio; Attorney Jay Bennett, 5995 Fairfield Road, Oxford, Ohio 45056; Richard Lemker, Spectra Tech Ltd., 6432 Gracely Drive, Cincinnati, Ohio; Jay Bennett, 5995 Fairfield Road, Oxford, Ohio; Richard Lemker, Spectra Tech, P.O. Box 14082, Cincinnati; Josh Liles, APEX Engineering, 1068 North University, Middletown, Ohio

Mr. Steele said he and his wife bought his property 13 years ago which abuts Mr. Oakley's property and said Mr. Oakley started this project and came to them and explained what he was going to do and they expressed concern about peace and quiet and they have found Mr. Oakley quite accommodating to their needs and have been able to call him and talk with him and has made every attempt to make us comfortable.

Mr. Bennett said he is the attorney representing the applicant the plan before you has several family recreation activities while utilizing the topographical and vegetative character of the property and to expand the business that operates in the fall for 22 days to a venue that supports a family recreation place with a multitude of activities and temporary camping for 100 – 123 days a year. He gave some zoning history on the property and said a lot of time, effort and expense has been made to make this as humanly possible to be as impactless to the neighbors. Vegetative & structural screening and setbacks are or will be in place; testing on light and sound aspects and those experts are here as well, and their results /reports to the Planning Department are here for the record and we'd be happy to answer any questions. Mr. Bennett stated he has experts here that conducted the studies and submitted reports on their findings: Mr. Josh Liels, Apex, expert on drainage, did a study on the blue stream drainage and the results include what needs to stay or what adjustments are necessary and we are in agreement with those results; and Mr. Richard Lemker, Spectra Tech Ltd did a noise study and light pollution study on all of the property boundaries and found no light pollution. He added the experts will address the Board to provide more information on their studies.

Mr. Lemker, President at Spectra Tech Ltd, 6432 Gracely Drive, Cincinnati, introduced himself and provided information on his company, details on the light study he conducted on October 10th, a Friday evening during the full-swing of their Halloween activities, and how the tests were conducted for the two-part test for sound and it indicated the designed and implemented their facilities and has made no impact on the side perimeters so neighbors home would receive even less impact. The light testing was done during the same evening and he provided details on the light pollution testing done at four (4) different locations on the premises and concluded the light from the activities does not extend to the perimeter where there is concern for light pollution and there is no harm being done there with regard to the lights that are currently used. He added Mr. Oakley has designed and oriented the facilities and activities of his business in order to control all of the noise and lighting that goes to the property lines so the levels are nil at the property line and he has done an excellent job at curbing the noise and lights.

Mr. Bennett asked if there were any questions regarding the drainage or blue line stream and introduced Mr. Josh Liels, Apex Engineering, to present his findings.

Mr. Josh Liels gave an overview of the Drainage Study, based on the 100-year storm variables, for the blue line stream and concluded the culverts placed there do no adversely affect the stream in either direction and offered to answer any questions.

Mr. Bennett requested that the reports presented by these experts be submitted to the staff for the record and said he feels they have complied with all of the standards brought up in the staff comments.

Mr. Rumpke asked about the placement of the 125-foot tower and its proximity to the property line so it would not fall outside of the property line.

Mr. Bennett replies yes it is.

TESTIMONY IN OPPOSITION OF: David Stoutenborough, 10815 Farmersville W. Carrollton Pike, Germantown, Ohio (Montgomery County); Zach Posey, 7203 State Route 4, Middletown, Ohio; Christine Carpenter, 8890 Thomas Road; Donna Akers, 8884 Thomas Road, Middletown; Tom Carpenter, 8890 Thomas Road; Attorney Jack Grove, 1251 Nilles Road, Fairfield, Ohio; Wendy Moeller, Compass Point Consulting; Todd Farler, Madison Township Administrator; Rhonda Posey, 6580 Bunker Lane, Middletown, Ohio

Mr. Stoutenborough said he owns a parcel directly to the west of this land and his brother owns land directly south of the proposed zoning property and they have been opposed to all of the zoning issues since several years ago and was concerned it was changed without notification and they are both opposed to this and asked how does it benefit the adjacent property owners. He said it adversely benefits the adjacent property owner. The Township Trustees don't want to take responsibility for the zoning, now people who are making this zoning decision are not the one's who live there, pay taxes there or send their kids to school there. He said his parents built the farm there in 1942 and in the meantime the population has doubled and the spirit of zoning is not to take away from what is already there, and what is already there is being affected in this situation. He said he intends to confer with the Attorney General to see if they can get a better representation here.

Mr. Bullington asked Mr. Stoutenborough how this zone change is going to negatively impact his property.

Mr. Stoutenborough responded and said a person can get there first but then development comes in and changes it and it can run you over.

Mr. Bullington said this board must decide what the best use of this property is at this present time.

Mr. Potter said, with reference to Mr. Stoutenboroughs' comment about better representation, normally we would hear from the Township trustees on their position, and asked if staff has received any input from the Township Trustees on.

Mr. Acuff said the Township Administrator is here and will provide input from your local government.

Mr. Stoutenborough said the driveway that accesses north from Thomas Road from (name inaudible) property was intended for houses not commercial development and asked if the easement is wide enough to promote development.

Mr. Zack Posey said his property is located directly across from the proposed entrance of Land of Illusion and said he bought the property in 2006 and at that time he looked at the Madison Township Land Use Plan Map and this whole areas was agricultural and that is why he bought it there and felt it was a great place to live and start a family. He said if this zoning goes through he is concerned his property value will decrease and he will sell it and stated he would not buy another house in Butler County because of the zone changes and not adhering to Land Use Plan vision. When he moved in it was a farm field, and now its Land of Illusion with telephone poles to look at now. His property is about 40 feet higher than Land of Illusion and he can see it all.

Ms. Christine Carpenter said she bought her home in 1998 to raise a family away from subdivisions. She is concerned about the safety of her children; they are fearful of the chainsaws going late at night; about the noise that comes from there until 2:00a.m. on Fridays and Saturdays; about the trespassing on their property; the intoxicated people that are wandering around the area and the knocking on their door asking for help or to give someone a ride home because they either had a fight or are intoxicated; the noise created makes her house shake; the social impact on their lives including parents' of other children not allowing their children to come visit because of Land of Illusion; the full service bar that offers liquor and she feels it's not a healthy situation or one for parents to be drinking at while their children are participating in the activities. She said she and neighbors have called to complain about the noise at a benefit. Bar Hoppers and Hot Rods, held in the summer time and they heard profanity over the public address system at Land of Illusion stating, "The neighbors were complaining about noise and to get loud and really let the neighbors hear how (profanity) loud they can get and if people aren't having a good time then they need to drink more alcohol and made the suggestion for everyone to call their friends and have them come down and make more noise" and her children witnessed this language and behavior. She also voiced her concern about things stolen from their barn, their safety and security has been compromised; and now they have resorted to putting fencing up and a gate at their driveway to keep people out.

Ms. Donna Akers said she lives next to the Carpenters' property and has lived there for eight (8) years. She asked the Board if they would like to have to look at Land Of Illusion if it were in their backyard and stated it's no longer a peaceful, quiet country setting. She stated she disagrees with the sound expert and invited him to come and be in her living room while Land of Illusion is open on a weekend to experience how loud the noise and vibration from the

fireworks and if he were here to listen to the bomb-like explosives. She said the noise from the fireworks upsets her grandchild and interrupts their sleep; she is also concerned about the noise from the music base and the crowd; the people around, traffic, the noises scare her pets and they won't venture out in her yard; the increased traffic and many vehicle accidents on the two-lane country road in front of her house; the alcohol issues in a family-oriented park; and asked the Board to consider if they would like to have this activity go on in their back yard. She said they have been putting up with this and can't imagine it with Land of Illusion getting bigger.

Mr. Carpenter said his wife made the initial appeal on this and they bought 57 acres in 1998 out there to live out in the country, before Land Of Illusion was there. They did not move there to look at a concrete wall or have to put up with the noise or nuisance of Mr. Oakley's park. He said he is concerned about his daughter who is in 4H and people have told him he will have issues trying to keep a horse there and said the horse will have to be stalled at night because of the noise and activity going on and he doesn't want his daughter riding a horse if its going to get spooked by the noise going on. He said the sound expert stated he was there on October 10 at 9:00pm and said the noise gets louder as the evenings go on and there is more noise and activity as the days get closer to Halloween so he cautioned the Board as to taking that into account relative to the sound experts findings. He also questioned whether the light study results took into consideration the proposed 1,126-car parking lot that will is planned near his property and felt it probably was not factored in. He said the drainage expert discussed the blue line stream and that stream cuts through his property and he has witnessed that it dried up last summer so the statement that it hasn't harmed the creek is not true. He closed by thanking the Board and said if his daughter wants to raise a horse, steer or a hog he wants it to be possible and asked the board to help deny the application and this is the first step in the process.

Mr. Bullington said he's heard enough testimony.

Mr. Acuff said the Township still must speak.

Mr. Jack Grove said he is an attorney representing numerous opponents here tonight and certainly objects to curtailing other opponents who wish to speak as there are more opponents that wish to speak and express new concerns that will not be redundant, who's points are important to be considered and we want the opportunity to have a fair hearing and allow everyone who is here who wishes to speak for the Planning Commission to make their determination.

Ms. Wendy Moeller , Principal & Owner of Compass Point Planning, and she is a professional community planning consultant and has been doing this for 18 years and has background in Township zoning. She focused on the findings she had in the report, including the financial impact on the area, the variations to the Land Use Plan and the transitional period and that commercial/industrial areas yield more financial impact for the township. She also discussed the compliance of this application to the zoning Regulations and the review criteria in order to

base a decision on – she disagrees this is not an agricultural transitional use; and as for long-term impact this will have on neighboring property, nor does it meet the requirements of preserving it long-term for current and future. She asked how and what evidence has the applicant has presented to support that it will not be detrimental to the surrounding properties and there is no formal designation of open space nor how they will preserve it long term.. She stated this is clearly not an agricultural use and it will impact on the surrounding area negatively and most importantly, the final conditional approval criteria relates to public health, safety and general welfare of the residents of Butler County – and this application, in no manner does that.

Mr. Todd Farler, Madison Township Administrator introduced himself and said he is here to represent the Madison Township Board of Trustees and read a prepared statement which, in summary, announced the Township Trustees believe this PUD will not be beneficial for their rural Township at this time.

Mr. Grove returned to the podium and closed his testimony of opposition and said he understands Mr. Oakley's wish however it impacts the whole neighborhood and asked the Planning Commission to respect those neighbors and turn this application down.

Ms. Rhonda Posey said she lives 1/5 miles away from Land of Illusion and said when it is in operation you can greatly hear it. Ms. Posey said Madison Township is a place to come out and raise your kids and be community-involved and this does not fit in with that. Her concerns included the go-karts, camping, theft, serving alcohol there and the high traffic accidents that occur and this has been kept very quiet. She added Madison Township will suffer if this is approved.

Mr. Acuff said it might be appropriate for a short answer from the applicant to address some of the concerns raised.

Mr. Bennett said his background in land law extends to 42 years, and said if you compare the Madison Township Land Use Plan with the Township zoning map they are distinctly different in this area. There is more industrial use passed (re-zoned) and implemented than the Land Use Plan says and the Land Use Plan is obsolete by its own terms and the map doesn't even identify the re-zoning done in 2004.

Mr. Brett Oakley gave a detailed history on the creation of Land of Illusion which started back in 2004 and said he is not here to inconvenience people or disturb people – he is here to run developments and believes it's a good thing for the area and he wants to do it right.

Mr. Bennett said there are some technical issues that need to be rebutted.

Mr. Bullington said no he's had his time to speak.

Mr. Acuff said there will be another zoning hearing (Rural Zoning hearing) for this application on February 26th if anyone wishes to bring up additional information.

Mr. Brown asked if the complete total property will be fenced in because if its not and people who are drinking excessively and wander on to residents property and that would be a concern that has been expressed – and he understands no one wants to see ten-foot concrete walls next to a person’s property.

Mr. Acuff identified where the existing concrete fence starts and ends and a chain link fence are located. What about Zombie trail or zip line.

Mr. Oakely said the Zombie trail is a controlled area and it’s not possible for anyone to wander from that.

Mr. Bullington said he is aware a traffic study was done and there were some things that had to be done and extra exit and entrance to get into that back entrance way from Route 4 and asked if the main entry and exit would be on Route 4.

Mr. Oakely said that was for just the back section of the park - we will fence it there to keep people out from Land of Illusion.

Mr. Bullington asked about the 50’ buffer requirement along side of the residences and if the Soil & Water Conservation district would monitor the blue line stream as necessary.

Mr. Acuff said yes to both questions.

NEUTRAL COMMENTS: None

Mr. Rumpke made a motion to recommend denial of case RZC 15-01 Land of Illusion for the reason just because they were given a B-1 zoning initially doesn’t mean we have to compound that mistake two more times; it was mentioned there were backups on the stream and there were no permits for those crossovers that Mr. Oakely created and that indicates that Mr. Oakley doesn’t always follow the rules and if we vote in favor it will give him the ability to break more rules on this property. Ms. Wiant seconded the motion. Upon the call of the roll, the votes were:

Brown: against the motion

Bullington: against the motion

Cooney: against the motion

Potter: for the motion

Rumpke: for the motion

Wiant: for the motion

Mr. Potter said one of the main reasons he voted the way he did was that he's from Oxford Township and he does not want to be disenfranchised by the County and so when his Trustees make a comment to this body they would take that into consideration because that is the absolute local input and in this case the Madison Trustees are against this. He added he lives in an area like that and it's the Township Trustees that they look to for Township representation.

Mr. Acuff reminded the Board they are making a recommendation to the Rural Zoning Commission and they will make their recommendation to the County Commissioners and this is not a final decision.

After a brief additional discussion, Mr. Bullington said he would change his vote and made a motion to deny the request based on the input of the Township Trustees comments made for the record. Mr. Rumpke seconded the motion. Upon the call of the roll, the votes were:

Brown: against the motion
Cooney: against the motion
Potter: for the motion
Rumpke: for the motion
Wiant: for the motion
Bullington: for the motion

The vote being 4 in favor, 2 against, the motion passed to recommend denial of the application for RZC 15-01.

RESOLUTION #: 15.03

ADJOURNMENT

Ms. Wiant made a motion to adjourn seconded by Mr. Brown. 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 by Lee Margraf and may be obtained upon written request. Any charges associated with preparing such transcript shall be borne by the person requesting.

Butler County Planning Commission
January 13, 2015 Meeting – *Continued*

Hamilton, Ohio
January 13, 2015

Chair

Secretary

Lee Margraf