



**BUTLER COUNTY  
PLANNING COMMISSION  
Meeting Minutes**

**MEETING:** Tuesday, June 11; 2013, 3:00 p.m.

**ROLL CALL:**

**Present:** Charles Bullington, Chair  
Kevin Cooney, Vice-Chair  
Steven Brown  
G. Coe Potter  
Beth Surber  
Shirley Wiant

**Absent:** Dave Baker  
Tom Barnes

**Staff present:** Peter "Zeb" Acuff, Planning Administrator  
Lee Margraf, Administrative Secretary, Dept. of Development  
Amy Cameron, Butler Soil & Water Conservation District  
Constance Kepner, Butler Water & Sewer  
Teresa Barnes, Butler County Engineers Office

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

**APPROVAL OF MINUTES:**

**May 20, 2013 Minutes**

Mr. Potter made a motion to approve the May 20th, 2013 Meeting Minutes as submitted. Mr. Brown seconded the motion. Motion carried.

**AYES:** Potter, Brown, Cooney, Wiant, Bullington

**ABSTAIN:** Ms. Surber

**NAYES:** None

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**PRELIMINARY PLATS:** None

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**ZONE CHANGES:**

**Aspen Trails, Rezone B-PUD to R-PUD  
Section 04, Town 2, Range 3  
Liberty Township**

Mr. Acuff showed a plat map of the property and indicated its location to State Route 747 and Kyles Station Road, previously approved PUD had a larger assisted living facility in the southwest corner. They are coming forward to change the zoning and to reconfigure areas to single family lots and it will expand the single family unit lots and will be the same types of uses, the assisted living is squared up on the southwest corner.

Mr. Acuff indicated where the existing zoning line is locations and to the proposed line. The purpose of the zone change is due to the change in housing demands and changes in the market since this was started and in response to what types of housing the market will absorb and will expand the single family houses a little.

Mr. Acuff said staff has reviewed this and recommends approval with no conditions.

Mr. Bullington asked if the applicant is present and would like to make a presentation.

Mr. Bob Garlock, Bayer Becker, said he is here representing the owners. He said he changes are relatively minor if you go back to the plan for the single family unit plans. This layout of single family units roadway system is the same layout/configuration which was initially approved and we are going back to that and reconfiguring the lots system and with the demand, the retirement community has gotten a lot smaller.

Mr. Garlock showed another plat with more detail of the lots and due to the demand in housing with the retirement; simplified it where there were two (2) cul-de-sacs and simplified it to one (1) wider one and more in line to the lots constructed to the south so it is more consistent.

No questions asked.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

Ms. Wiant made a motion to approve the replat for Aspen Trails, Re-zone B-PUD to R-PUD Section 04, Town 2, Range 3, Liberty Township, subject to staff comments. Mr. Brown seconded the motion. Motion carried.

AYES: Wiant, Brown, Potter, Cooney, Bullington

NAYES: None

ABSTAIN: Surber

**RESOLUTION #: 13.30**

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**Township-initiated Zoning Map Amendment, A-1 to R-1 or R-SE  
Section 21, Town 3, Range 3  
Liberty Township**

Mr. Acuff showed an aerial map of the property (outlined in blue) and indicated its proximity to the Millikin Road and Kyles Station Road in Liberty Township and Estates of Hawthorne Hill Subdivision.

Mr. Acuff showed a plat map of the property and said there are several lots already developed small lots on the perimeter and a couple of large parcels still left in the interior.

Mr. Acuff showed the Liberty Township's Master Plan and said the Liberty Township Master Plan calls for 1/2 acre residential lots along most of this and current zoning for this has it all as Agricultural so the Township is taking the initiative to come in here to rezone these areas to R-1 and the larger parcels to R-SE to change it from Agricultural to Residential and to be more consistent with their Land Use Plan.

Mr. Acuff said staff has reviewed this and the only comment was from the Butler Soil & Water staff and their concern about the blue line stream that runs through some of the larger parcels and so there is a note that any development there should be mindful of the impact on the blue stream from any development and staff recommends approval.

Mr. Potter asked how many separate property owners are there in this zone change.

Mr. Andy Meyer, Liberty Township Zoning, said there are 280 property owners and there are approximately 315 parcels.

Mr. Potter asked what about the larger parcels owners in there. There are a few large parcels in there – and said he would assume the owners of the larger properties position would be in favor of the zone change and asked, would it not?

Mr. Meyer said he could not comment on their individual position; there are 280 or so owners.

Mr. Potter said he means the larger properties, and couldn't image they would object to the change – but he would think that position of the property owners is something that should be a consideration for this, and asked, "Should it not?" We are rezoning their property.

Mr. Acuff replied he would have to defer to the township on that.

Mr. Potter said he didn't think he would see any objection here, but they had a huge lawsuit in the City of Oxford because they rezoned property and the owners did not want it rezoned. It

looks like it would be to their benefit but there are some large property owners affected that may want to opt out.

Mr. Meyer said this rezoning does not restrict any properties; in fact it aids their ability to develop.

Mr. Potter asked Mr. Meyers if there is any agricultural use there now.

Mr. Meyer said we've done a number of work sessions with property owners and to his knowledge no property owners have come forward with a use that would be rendered non-conforming by the zone change.

Mr. Potter said now with the standpoint of this rezoning, what is the law relative to notification of all the property owners.

Mr. Meyer said the law is if the rezoning is for more than 20 parcels, notification to the property owners is not required but the Township has notified each and every owner that is affected.

Mr. Potter said ok then so everyone has been notified, and to Mr. Meyers's knowledge the Township has not received any objections.

Mr. Meyers said we have received some requests to opt out by some property owners.

Mr. Potter asked then why is that not being respected?

Mr. Meyer said you would have to ask the Township Trustees.

Mr. Potter said, ok.....well there are all kinds of things, because even if you are grandfathered as an Agricultural use, as soon as you get rezoned then there is a lot more that can be shot at the farmers relative to complaints from surrounding homeowners like, "they're using fertilizers near my house"; and "They shouldn't be doing farmer", etc."

Mr. Potter said I'm a little uneasy with it, only because we've got some fairly large parcels that are being used for agricultural purposes, it sound like, and if those are the people that opted out [of the rezoning], I'd like to know more about it, but that's just me. Thank you.

Mr. Bullington asked if there were any more questions. No reply.

Mr. Bullington asked if there was any further discussion.

Mr. Potter said yes, I'd like to discuss this a little more. Then he asked Mr. Meyer if the timing is crucial on this, another words do you necessarily have to have done this month?

Mr. Meyer said the there is a time sensitive issue that is driven by the Township Trustees' request and their desire for approval this month, regarding the ability to regulate a cellphone tower proposed in the area.

Mr. Bullington said well there's your answer.

Mr. Potter said he wonders if the cellphone tower is on where the people opted out.

Mr. Meyer said the person who is planning the cellphone tower is the one who requested to opt out.

Mr. Potter asked if they are willing to pay for the [law] suit. Because that is exactly what happened in Oxford. The lawsuit in Oxford rezoned a piece of property where the owner didn't want the rezoning, and there was a substantial diminution of value created by it and the owner of the ground turned around and sued the City of Oxford big time! – Damages and all kinds of things!

Mr. Meyer said he understands Mr. Potter's concern, what we're asking for is a recommendation on the zone change ..... Does the proposed zone change align with the Township's adopted Land Use Plan.

Mr. Brown asked if there would be any legal repercussions for the County.

Mr. Potter said we are only making a recommendation here.

Mr. T.C. Rogers, County Commissioner, asked if the taxes on the large parcels would go up and is there a list of how many people said they wanted (inaudible).

Mr. Meyer said he thinks it is a misunderstanding - this zone change does not necessarily affect the taxes of the parcels, just the zoning and what it is being used for.

Mr. Potter said because if it is zoned Agricultural they could have Current Agricultural Use Value (CAUV) and that would impact their taxes and there is a concern about perceived reduction in property value.

Mr. Meyer said this will not affect anyone's CAUV status.

Mr. Potter said because you can have CAUV in any zoning classification.

Mr. Bullington said looking at the two (2) maps, it appears that most of the property proposed to be changed was A-1 and it is being changed to R-1 or R-SE.

Mr. Meyer said the difference between the two [types of zoning] is R-SE has the ability to develop lots outside the subdivision on two (2) acre lots.

Mr. Potter said so what he is hearing is that none of these property owners were informed as to this hearing [the Butler County Planning Commission].

Mr. Acuff said no, the County does not notify the property owners for a Township rezoning hearing but he knows that the date and time of this hearing were published in the newspaper.

Ms. Wiant said she believes there was a Township meeting held on May 21 on this from the mailing I got on these.

Mr. Meyer said correct, the Township Trustees had a work session and when they made the motion to initiate the zone change request on 5/21/13 notice of those meetings were mailed to the property owners.

Ms. Wiant said so there must have been some turnout, discussion and something must have come from that.

Mr. Meyers said correct, and he was not present at the May 21 hearing but from what he understands there was a handful of property owners – about 40 -50 property owners.

Mr. Potter said that would be a couple handfuls.

Mr. T.C. Rogers said he thinks his role here is to observe, but asked what the normal procedure is: if you have a Township that has its own Zoning Dept. and they recommend within their town shop and their Trustees approve it, then it comes to us and we are to either approve or turn it down based upon what is heard at this meeting, so if you have objections, then he would think the normal protocol would be to go with the zoning Dept. of the applicable Township.

Mr. Potter replied to Mr. Rogers and stated the Commissioners are not bound by us in any shape or form. We are strictly making a recommendation, and I would like to state for the record, that if this were to pass, that the Commissioners do scrutinize the potential of litigation for someone who wanted to opt out who might be injured financially.

Mr. Rogers said if you pass it and Mr. Acuff presents it to us there will be an opportunity for us to scrutinize it.

Mr. Acuff said this does not go to the County Commissioners, next it will go to the Township Zoning Commission and then to the Township Trustees.

Mr. Potter said so they have the capability to override us.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

Mr. Potter said given that neither of the judicial bodies are bound by our recommendation, I move that we recommend not to approve, and that way they can still have their time-sensitive situation at the judicial level by overriding our recommendation, so I move for denial. Mr. Brown seconded the motion for denial.

AYES: Potter, Brown, Wiant

NAYES: Bullington

ABSTAIN: Cooney, Surber

**RESOLUTION#: 13.31**

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**FINAL PLATS:**

The Streets of West Chester, Replat of Lots 14 & 78  
Section 27, Town 3, Range 2  
West Chester Township

Mr. Acuff showed an aerial image of the map of the property and indicated its proximity to Allen Road. Mr. Acuff said this is the final section they have to split up into 14 lots and are typical townhouse lots. He then showed a plat map and said there are no significant comments from staff, just a few minor comments of which he highlighted.

Ms. Wiant made a motion to approve the final plat for The Streets of West Chester, Replat of Lots 14 & 78, Section 27, Town 3, Range 2, West Chester Township, subject to staff comments. Mr. Cooney seconded the motion. Motion carried.

AYES: Wiant, Cooney, Potter, Brown, Bullington

NAYES: None

ABSTAIN: Surber

**RESOLUTION #: 13.32**

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**Carriage Hill, Section 5A  
Section 32, Town 3, Range 3  
Liberty Township**

Mr. Acuff showed an aerial map of the property and said this is the next section of Carriage Hill with 17 lots on just shy of 11 acres and one (1) open space area and said staff has a few comments and said the applicant has responded to a number of concerns raised earlier and are reflected in the new plat.

Mr. Brown made a motion to approve the new plat for Carriage Hill, Section 5A, Section 32, Town 3, Range 3, Liberty Township subject to staff conditions. Ms. Wiant seconded the motion. Motion carried.

AYES: Brown, Wiant, Potter, Cooney, Bullington

NAYES: None

ABSTAIN: Surber

**Resolution #13.33**

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**Williamsdale, Replat of Part of Lots 244 – 246  
Section 15, Town 2, Range 3  
St. Clair Township**

Mr. Acuff showed an aerial image of the property and said the buildings are located across the property lines and said the properties that we're looking at here and indicated where a garage is built over the property line and also a portion of another building is encroaching on the right-of-way of the street here. Mr. Acuff showed where the current property lines are and how they go through the buildings and said they are looking to replat this part of lot 244 – there are three (3) plats being consolidated down to two (2) lots so each house will be on its own lot.

Mr. Acuff showed the proposed property lines and said there is still an issue with encroachment here (pointed to on map) and the applicant is working with the County Engineers Office and Water & Sewer to draw up an Encroachment Agreement to allow the buildings to exist there in the right-of-way and Sewer Easement.

Mr. Acuff said the pending Encroachment Agreement is the biggest concern of County Staff and there are a few minor items to clean up, but based on getting the Encroachment Agreement and cleaning up the minor conditions, staff is recommending approval of this replat.

Mr. Bullington said so it dependent upon the Encroachment Agreement with Water & Sewer.

Mr. Acuff said yes.

Mr. Bullington made a motion to approve the replat of Williamsdale, Part of Lots 244 – 246, Section 15, Town 2, Range 3, St. Clair Township, subject to the Encroachment Agreement with Water & Sewer and staff conditions. Mr. Potter seconded the motion. Motion carried.

AYES: Bullington, Potter, Wiant, Cooney, Brown

NAYES: None

ABSTAIN: Surber

**RESOLUTION #: 13.33**



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**ADJOURNMENT:**

Mr. Cooney 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 by Lee Margraf and may be obtained upon written request. Any charges associated with preparing such transcript shall be borne by the person requesting.

Hamilton, Ohio  
June 11, 2013

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Chair

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Secretary

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Lee Margraf