

BUTLER COUNTY PLANNING COMMISSION
Butler County Administration Center
Hamilton, Ohio

REGULAR MEETING: Tuesday, September 8, 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, Co-Chair
Kevin Cooney
Charles Disney
Joseph Tucker

MEMBERS ABSENT: Chris Flaig
Lynn Nevel

STAFF PRESENT: Doug Dirksing, Butler Soil & Water Conservation District
David Fehr, Planning Director
Constance Kepner, Water & Sewer Department
Lee Margraf, Administrative Secretary
Eric Pottenger, Butler County Engineers Office
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 August 11, 2009 meeting minutes. Mr. Tucker seconded the motion. Motion carried.

AYES: Disney, Tucker, Bullington, Cooney, Brown, Potter

NAYES: None

ZONE CHANGES:

WCTZ 09-01

Robert Lucke Interests

Change from R-1A (Suburban Residence District) to C-PUD (Commercial Planned Unit Development District)
West Chester Township

Mr. Schmidt showed an aerial map of the property and said this request is for a zone change, with Robert Lucke Interests as the applicant, and the location of the property is on the northeast corner of the intersection at U.S. Route 42 and Fields Ertel Road in West Chester Township. The property is 2.871 acres and is currently zoned R-1A (Suburban Residence District) and the proposal for the site is C-PUD (Commercial Planned Unit Development).

Mr. Schmidt outlined the property on the aerial map and said there are existing residential properties on the north, east and the west sides of this property and to the south is an existing Kroger building in the City of Sharonville, Hamilton County.

Mr. Schmidt said the applicant is looking to change this to a C-PUD in order to create two general office buildings, a day care, and bank.

Mr. Schmidt showed a current zoning map of the area and said this is "R-1A" (Suburban Residence District) and most of the surrounding area (north, east, and west) is also R-1A, and the Kroger south of the property is zoned PUD for commercial purposes.

Mr. Schmidt said the Land Use Plan for West Chester Township calls for this area to be an Office/Residential Transitional area and as far as definition of these transitional areas and understanding what goes on there is considered a "gray" area and so it is up to the Planning Commission's determination on these types of situations with transitional areas because one person's view of a transitional area may be viewed as a highly developed area by another.

Mr. Schmidt said the West Chester Land Use Plan calls for it to be "Office/Residential Transitional" and it states they are looking for a low-intensity of office uses and another portion of it calls for a medium density housing area, and we will look at the plan momentarily.

Mr. Schmidt said in looking through a number of these issues as far as the Land Use Plan calls for, it really does conform to what West Chester has written and in the West Chester Land Use Plan it references a Low-intensity office use and actually in the West Chester Zoning Code "Low-intensity Office Use" is defined and so there is one use that we are looking at today on the property, a bank use, that is allowed in a Low-intensity

office area, but West Chester Zoning says that these areas are denied a drive-through or a drive-up window, so that is a consideration before the Planning Commission today.

Mr. Potter asked to confirm that they can or cannot have a drive-thru or drive-up window.

Mr. Schmidt replied, cannot, and this is one of the gray areas he mentioned that the Planning Commission can make a determination on.

Mr. Schmidt showed a Zoning Map of the area and identified the location of this property.

Mr. Potter commented that it is as it is represented, in other words, everything else in the immediate area is Suburban Single Family.

Mr. Schmidt said that is correct and actually this is the only vacant property in the area. It really is a gateway to West Chester from Sharonville and Interstate 275. He added that this case was presented before and tabled at one time and at that time it included another parcel in the zone change request but not now.

Mr. Schmidt showed another color-coded drawing of the area and said there is an uncolored version in the Planning Commission members' packets and said the red boxes are the locations of the proposed buildings on the site, and the green areas are the surrounding areas for buffering and right-of-way.

Mr. Schmidt said there is also a right-in/right-out on U.S. Route 42 which was approved by Ohio Department of Transportation (ODOT). There is a proposal for one designated right-turn lane and two designated left-turn lanes on Fields Ertel Road turning onto U.S. Route 42. Currently, the entrance along Fields Ertel is the only full entrance to this site.

Mr. Schmidt said the square footage of each is in the packet and this transitional area is a gray area as to what is considered "intense" and what is considered "not intense" – and the opinions vary.

Mr. Schmidt showed another drawing with proposed landscaping details and indicated where the proposed "Entering West Chester" sign location will be and there is also a proposed fence along with some trees for buffering of that area (pointed to on drawing) so the existing residential areas will be buffered from this area.

Mr. Schmidt said staff is recommending approval with the following conditions:

1. The sidewalk in front of the Office/Day Care building shall be connected to the

sidewalk parallel to U.S. Route 42.

2. The proposed privacy fence on the north side of the property shall be extended from the sidewalk parallel to U.S. Route 42 to the east until it meets with the privacy fence on the east side of the property.
3. Right-of-way shall be dedicated per the Butler County Thoroughfare Plan.
4. All streets and improvements shall be in accordance with Butler County standards and specifications.
5. The Ohio Environmental Protection Agency (OEPA) National Pollutant Discharge Elimination Systems (NPDES) Permit for Storm Water Discharges Associated with Construction Activity shall be complied with.

Mr. Schmidt said there were numerous residents in the area that did give staff some feedback, all of which are enclosed in each Planning Commission members' packets for their review.

Mr. Schmidt showed a drawing of the elevations of the proposed buildings.

Mr. Bullington asked Mr. Schmidt what the property on the southwest corner is, where it says PUD.

Mr. Schmidt said he believes it is a house and is zoned PUD.

Mr. Bullington said at some point that will be commercial also.

Mr. Schmidt said he does not know what the City of Sharonville has planned for that.

No further questions.

Mr. Potter asked if there was anyone present representing the applicant.

Mr. Douglas Smith, Engineer at McGill, Smith, Punshon, 3700 Park 42 Drive, Cincinnati, Ohio, 45241, introduced himself and said the applicant, Mr. Scott Lucke, Robert Lucke Interests, is here as well.

Mr. Smith thanked the County staff for their review and input on the project, and said this plan is in the spirit of the West Chester Land Use Plan for Office/Residential Transitional and as you can see, to the south is a high intense retail use and to the north is residential land use and we feel this plan offers a great traditional step down and transition in the zoning from the high residential use to the south it will offer buffering

to the residential land use to the north.

Mr. Smith said U.S. Route 42 is a major corridor that will support this development and there are scheduled improvements for U.S. Route 42 to make it into three lanes, turning lanes and other improvements in the future.

Mr. Smith said they have worked very hard with staff of ODOT, the Butler County Engineer's Office, City of Sharonville and we working out the access issues and they did receive approval from ODOT with regards to the right-in/right-out and worked with the City of Sharonville and we're proposing improvements along Fields Ertel Road, which include road widening and adding an additional turn lane and feel these improvements will go in concert with the future improvements on U.S. Route 42 and make for a nice improvement to the access that is there.

Mr. Smith said they have also received approval from Butler County Department of Environmental Services (Butler County Sewer & Water) and there is water availability and sewer availability and they are required to upgrade a six-inch water main which is south of Linwood Drive and located on the west side of U.S. Route 42, approximately 450 linear feet of water main that will be required to upgrade from a 6" to a 10" water main, overall, improvement of the road ways on Fields Ertel Road and infrastructure improvements well exceed \$200,000.00.

Mr. Smith said they feel this plan will provide for a common architecture and will be low intense office development residential character to them and said he will let Mr. Scott Lucke speak more on that.

Mr. Smith said, with regard to landscape and amenities, Mr. Schmidt presented a slide earlier, and we are proposing a privacy fence along the east property line with evergreens and trees for buffering and a privacy fence along north property line as well and do concur with staff comments to go ahead and extend the privacy fence along the entire northern property line.

Mr. Smith said the applicant has talked with residents to the east and is aware of the concerns and feels that we have presented a plan that addresses their concerns and have taken their concerns and interests in to consideration with the privacy fence and the additional buffering along that side. He added that at one time there was a proposed day care located over at the east property line and they have moved that to the northwest corner and have kept the residents' concerns in mind with this plan presented today.

Mr. Smith said they are also proposing a West Chester entry sign to identify this as the entrance to West Chester Township.

Mr. Smith said as far as the use, they have had some previous conversations with staff from West Chester Township and it was our understanding that the bank by itself is an acceptable use, and it is the drive-through portion of a bank that is in question and staff did say that they felt these days it's kind of hard to open a bank without the drive-thru facility so therefore they felt a drive-thru facility acceptable, again subject to approval from this Board as well as the West Chester Township Zoning Commission.

Mr. Smith introduced Mr. Scott Lucke to speak on behalf of the building and the product.

Mr. Scott Lucke, Vice President of Robert Lucke Interests, 8825 Chapel Square Drive, Cincinnati, Ohio, 45249, said he appreciates talking with staff and they have helped them quite a bit working through this process, and they have been working on this project for almost two years and have looked at this site multiple times as staff has pointed out, they did have property to the north under contract at one point and realized it was not within the Land Use Plan and wanted to accommodate that so they narrowed it down to the four properties.

Mr. Lucke gave a brief history of Robert Lucke Interests and Robert Lucke Homes and said this would be there 10th office park and all are single-story, ranch-style, traditional roof line and the majority of the owners, these are for purchase (as the applicant does not like to lease them – over 11 years they have only leased one unit) so all of the tenants are business owners and they are buying a piece of each building and they take more care of the building themselves and Robert Lucke Interests have professionally managed office parks and the unit owners have an association that they are part of with a Board and they pay fees towards that associate to manage the property and take care of it.

Mr. Lucke said the types of users they have had in the past include child care centers, attorneys, accountants, chiropractors, pediatricians and dentists.

Mr. Lucke said they want to keep it very similar to the style of what they have done in the past: single-story, dimensional shingles with hours of operation for these types of businesses are generally 8:30 a.m. to 5:00 p.m. and in the past they have sold 50% to medical and 50% general office, and the medical peak hours are typically 10 a.m. to 2:00 p.m.

Mr. Lucke said regarding the staff recommendation for the buffer, as Mr. Schmidt had mentioned, in the past we have talked to the property owners to the east and actually the property owner on the north has a house on it already and we have worked with them for a while and he is not opposed at all to the recommendation for the fence in the back and the fence they are proposing is an eight-foot tall fence as shown in the drawing, and it has two-feet of lattice at the top and six feet of regular fence to create a pretty good

buffer between them and the residential areas.

IN FAVOR: None

IN OPPOSITION: Mr. Randall Stanifor, 10085 Sonya Lane, West Chester Township; Amy Painter, 4333 Aaron Court Cincinnati, Ohio; Larry Dinger, 7429 Woodcroft Drive, Cincinnati, Ohio; Harold Martin, 4270 Fields Ertel Road, Cincinnati; Charles Baker, 4237 Fields Ertel Road, Cincinnati, Ohio; William Kelley, 4340 Fields Ertel Road, Cincinnati, Ohio; Rick Wiggs, 4306 Fields Ertel Road, Cincinnati, Ohio.

Mr. Stanifor said he lives right around the corner from this proposed development and from talking with some of the neighbors in that neighborhood, he does not think anyone is against some type of development there, it is just the density of what they are proposing and feels it will create an unsafe condition and headache for residents that live in that area and added he feels it will hurt the other businesses further up the street towards Pisgah because it is already a congested area and that is obviously why they are expanding U.S. Route 42, and believes there will be a lot of cars cutting through the local subdivisions to avoid the congestion and feels it is too dense a project and said not to let the desire to “do something” cause them to do the “wrong thing”. It is not consistent with the comprehensive plan because the plan calls for “Office/Residential Transitional” and should be low intensity instead of high intensity. The surrounding coverage of the residents around there is 10 percent and this is 20 percent coverage – that is double the amount of what the surrounding areas currently are. The proposal also exceeds adjacent rear yard setbacks and the resident’s are 40 feet setbacks and this would be 50 feet back. The building should be on the same scale as the surrounding buildings and these are huge in comparison to the houses and buildings around there.

Mr. Stanifor said traffic access will not be safe and there is no good place for access and there are conflicting left-turn lanes when you come out of Kroger and want to go left, you will have to go across three lanes to get to a left-lane turn and will create a nightmare and will be a very unsafe condition for residents that walk over to Kroger. He added that traffic is so dangerous on U.S. Route 42 that ODOT will not allow full access and unfortunately the Butler County Engineers Office felt they had not choice but to grant full access on Fields Ertel Road and that is dangerous and this would create a head-on conflict at Kroger and the only way to make it safe is to reduce the square footage allowed on the site. Mr. Stanifor has some concerns about the proposed open space because they actually put it by Duke Energy and should not be fragmented and be useful – whereas this is fragmented and not useful.

Mr. Stanifor said it would be great to have a sign “Welcome to West Chester Township” but the problem is, the property on the corner is owned by Duke Energy so you are not going to get a “Welcome” sign that people will be able to see if you are looking from back behind the cars in traffic.

Mr. Stanifor said a PUD shall be the same as O-1 low in density office – O-1 does not allow the drive-thru lanes in banks and the reason why you would not want a drive-thru in Residential Transitional is because of the traffic created and it is an unsafe condition.

Mr. Stanifor thanked the Planning Commission.

Ms. Painter said she lives on the northwest corner nearby and Mr. Stanifor did a great job and raised many issues that she had on her list, but one item she wanted to discuss is screening and would like to see the applicant try to preserve as many of the mature trees along the borders as possible and there are quite a few of them along the edge there and instead of a giant vinyl fence she would rather see a landscape berm with pine trees that stay green the entire year and would block it instead of a large vinyl fence.

Ms. Painter said the proposed lots are part of the subdivision she lives in and changing it to office use concerns her and said it is a hard thing to swallow and does want it developed but feels this is too much and is very concerned about the traffic and the cars that said in the comprehensive plan it calls for the buildings to be fronted on the streets with parking screened in the rear – and said she did not hear it mentioned at all and this does not show parking in the rear.

Ms. Painter said she was also concerned about the drawing Mr. Schmidt showed with the proposed buildings colored red and the green because it kept coloring the Duke Energy property on the corner which made it look like there was more “green” out there than there really is and the Duke property is not part of the proposed development and does not feel there is enough open space and would like that to be reviewed again to make sure it is adequate and she would like to see the square footage reduced down to around 10,000 square feet.

Mr. Dinger said he is a home owner in a subdivision close to this property and no body he has talked to in the Home Owners’ Association is in favor of this development, he has not taken a poll or got signatures from anyone but talked to the President, Secretary and everyone he has talked to is not happy with what is going on here. He said he is amazed this is on the border of Butler County and Hamilton County lines and the zoning all around it is Residential, there are four banks in less than one-eighth of a mile and you have another one going in here; there are two day care centers just north of this and just about opposite of each other and to him it is an intrusion to the residential area and said he agrees with the other people who spoke already and feels it will be a safety issue concerning the exits on Fields Ertel Road during rush hour traffic.

Mr. Dinger said he likes the residential aspect of the applicant’s plan and wonders, in this economy, how quickly they will build.

Mr. Martin said his property is just east of this proposed development and Mr. Lucke talked about improving Fields Ertel and asked how far back is he going to go with widening Fields Ertel Road.

Mr. Lucke said right now there will be improvement to the east property line with a stipulation that a curb cut would have to be relocated in the future but for now the improvements will not go past our property line.

Mr. Martin asked Mr. Lucke how far back from the buffer to his property – the fence.

Mr. Lucke said it is about five or six feet off the property line.

Mr. Martin said and they only got six feet left – add thirty feet from the main road – from the center so if there are any road improvements there, they are going to be taking some of our property.

Mr. Martin asked if they come and take more drive way, would they get paid.

Mr. Potter asked Mr. Pottenger if he could explain what happens when property is taken.

Mr. Pottenger said in this particular case it is a private development and that would be an agreement between the private-property owner and the developer.

Mr. Pottenger said whenever a City, County or State entity acquires property from a property owner that is outside of the current right-of-way, there has to be just compensation. Now if it's a private developer, then that is an agreement or arrangement between the developer and the property owner as far as how that compensation is done.

Mr. Martin asked if he could leave here assured that they are not coming past his property line.

Mr. Lucke said that is correct, all improvements will be done on the public right-of-way.

Mr. Potter asked Mr. Martin to direct his questions and comments to the Planning Commission.

Mr. Martin said he was told that they offered to buy the three properties and he was not made any offers and he does not know why.

Mr. Potter said if it is a question that we feel we need to get information from the petitioner, we will get that.

Mr. Martin said they told one of his friends that they offered to buy three properties.

Mr. Potter responded that this is hearsay and the only thing we have is that Mr. Martin said the petitioner has not made an offer to him and if he would like that presented than that is fine and we understand that.

Mr. Baker said he lives on Fields Ertel Road and asked if U.S. Route 42 will be widened after this development.

Mr. Pottenger said ODOT has this widening already scheduled so regardless of whether this development occurs or not, U.S. Route 42 will be widened and believes it is scheduled to start this fall or early spring and that is through the State of Ohio.

Mr. Baker said widening Fields Ertel has already been touched on here and asked if there are plans for it to be widened there, other than the developer's proposal.

Mr. Pottenger said Mr. Matthew Loeffler, Traffic Engineer, Butler County Engineer's Office, approved the Traffic Impact Study for this site contingent on the following five items:

1. Construct a right-in/right-out per ODOT specifications on U.S. Route 42 approximately midway between Fields Ertel Road and Windwood Drive.
2. Widen Fields Ertel Road to include two (2) westbound left-turn lanes and one (1) westbound right-turn lane. The left-turn lane storage should be 400 feet while the right-turn lane shall be the length of the development frontage.
3. Modify the existing traffic signal at U.S. Route 42 and Fields Ertel Road to accommodate the improvement recommendations.
4. On Field Ertel Road, construct a 100-foot, including 50-foot diverging taper, eastbound left-turn lane for the temporary full access drive to the proposed development. The development drive is considered temporary until it can be relocated further east to align with the secondary drive to Kroger upon future development.
5. Due to potential sight obstructions from eastbound left-turning vehicles, a short westbound left-turn pocket shall also be constructed for the secondary Kroger access drive.

Mr. Pottenger said, yes, Fields Ertel will be widened as you approach U.S. Route 42.

Mr. Baker asked where it will be widened.

Mr. Schmidt pointed on the map and indicated where the two left-turn lanes and the west bound right-lane will be.

Mr. Baker asked then if there will be one dedicated lane for the right-turn and two dedicated lanes for left-hand turns, beginning at this property line.

Mr. Pottenger said that is correct and pointed to where it will start (on the map) in relation to the property line.

Mr. Baker asked, regarding retention water, where will all of the retention water go. He had an issue with Kroger when that was built, and said the water came in through his basement floor because they moved the whole hill side.

Mr. Pottenger said the developer is proposing subsurface detention so basically it is burying a series of pipes under the site to manage and maintain storm water runoff and there is also a culvert underneath Fields Ertel Road adjacent to U.S. Route 42.

Mr. Baker asked what leg he has to stand on if it creates more water for him.

Mr. Potter said he would say the court system.

Mr. Baker asked if the proposed units are sort of like business condominiums and who will maintain this property.

Mr. Potter said he believes the petitioner said there will be an Owners' Association and, in his opinion and from his own experience, the Owner's Association would be the same as any other neighbor, another words, the President of the Owners' Association will be as accessible as one of your other neighbors. He added that the Planning Commission can not guarantee that the Owner's Association will be any more or less responsive than any of the other neighbors.

Mr. Kelley said drainage is a concern for him where the water drains on to his property and for it to create more water even though drains are put in, if there is an astronomical amount of water like they had in 2001, it will leave his yard unusable and if he could use it he would level it off so it is like someone else has control of his yard and with the additional concrete and black top it will create problems for his yard and he is very concerned about it and he does not want more water there.

Mr. Wiggs said he lives two houses down and is not really for or against this project but is concerned that the project makes the neighborhood better and he has lived in his house for 25 years and has seen a lot of changes and is personally tired of the trash that comes across from Kroger that gets into the empty lot and they are the buffer for a lot of the neighborhood behind them and he is really concerned that they have some privacy and that entails an eight-foot fence and does not care if its cedar or whatever, but does want to get some privacy out of it and that should be addressed.

Ms. Painter asked if she could ask one more question, and said someone said something about the lines going through and something about the BCEO stating that one of the stipulations and she does not understand what those are.

Mr. Pottenger said the first item is the right-in/right-out for ODOT and the condition that this is a temporary driveway, in that in the future, if this property were ever to be developed, this drive way would be removed and relocated to align with Kroger's and if further development were to occur.

Mr. Schmidt stated that it is not in the Land Use Plan and it is not the Zoning Commission, it is something that was stipulated by the BCEO.

Mr. Pottenger interjected and said the stipulations were placed because Land Use Plan changes occur, Comprehensive Plans change and things change over a period of time and this may never happen, or it may be fifty years but we wanted to put a condition on this driveway to say that if further develop or things change, we have the right to remove it.

Ms. Painter said but that is why you are not allowed to have a house to the north , then asked so why would they put that as a condition.

Mr. Schmidt said it has nothing to do with the Zoning and has everything to do with their actual access management, unfortunately. They could take it off of the drawing but the conditions still exist.

Ms. Painter said it does not make any sense why that would be.

Mr. Schmidt said there is a Traffic Impact Study and the BCEO decided to put a condition in the Traffic Impact Study, that indeed if this were ever to develop, then it would line up with current access with Kroger, but has nothing to do with what is being proposed today, as far as the Zoning Commission and we are not changing the zoning to the east, west or the north of this property.

NEUTRAL COMMENTS: None

Mr. Cooney asked Mr. Lucke if it is correct that he owns the property to the north on the resident's side, and if so, what is his intent with that property since it is not part of this.

Mr. Lucke said they do not own the property to the north of the development.

Mr. Tucker said it seems like this project is together but there are so many people that have questions as to what is going to happen and have not been involved and he believes

some of these questions need to be answered and there will be no turning back and need more answers from them.

Mr. Bullington said he feels most of the traffic issues have been explained through ODOT and through BCEO and believes that by adding three (3) additional lanes to the three (3) lanes they have there now at that intersection, has got to improve the traffic flow immensely and some times it takes three or four lights to get through the intersection. By widening it, while there may be some stack up of some cars, it will alleviate a lot of the traffic problem at that intersection and also believes that is why West Chester Township did not want the drive-through. With a day care and office buildings, all of the traffic going in and out of there, other than the bank, will be first thing in the morning and last thing at night. The bank, without a drive-through, would be an occasional use bank and should not greatly impact that traffic light and he is inclined to approve the project.

Mr. Potter asked Mr. Schmidt to elaborate a bit on the aspects of the drive-thru.

Mr. Schmidt said we have two documents here for West Chester Township, their actual Land Use Comprehensive Plan and we also have their Zoning Resolution and according to the Land Use Comprehensive Plan, which is item #1 in the Findings of Fact, is what they are looking at as far as what is an Office/Residential Transitional area, and the wording that is used is low intensity office use and that is used in the Land Use Comprehensive Plan but that same wording is used in the Township Zoning Code and is actually the O-1 District which is for office. From that, we are looking at the same types of uses that are permitted in that area and one of the uses in the Zoning Resolution states that banks and financial institutions are allowed, provided there is no drive-thru or pick-up window, and that is what West Chester Township has in their Zoning Code for low intensity office district.

Mr. Potter asked Mr. Schmidt if the Planning Commission were to basically stay with that and approve this plan, it might be a provision that that not be allowed.

Mr. Schmidt said that is correct.

Mr. Potter said his observation is that a bank would not opt for a location that did not have a drive-thru option.

Mr. Schmidt said he believes this is where the "gray" area of Planning Commission comes in and it is where the Board determines in the end and we understand that.

Mr. Potter asked about the parking.

Mr. Schmidt said they are three spot over the required amount.

Mr. Potter said, in general, he does not find this a real intensive use of that specific corner and he concurs that to develop any type of low density or even any type of residential he's sees that as highly unlikely, given that it faces a Kroger parking lot and one of the cardinal rules in Planning and Zoning is "like facing like" and here you have the southern part is fully developed as commercial and that is a tough corner to deal with.

Mr. Brown asked if the Planning Commission were to approve this with the drive-thru, does it then go to back to West Chester Township.

Mr. Schmidt said yes, no matter what happens today it will go back to West Chester Township – first to their Zoning Commission and then their Township Trustees.

Mr. Cooney said it will likely never be developed for residential, five units per acre seems less transitional than the proposed.

Mr. Potter said the audience needs to understand that this Commission is a *Planning* Commission and is why some of the questions that were asked were referred to the Butler County Engineer's Office as many of the questions are not within our purview from the stand point of, just like the gentlemen spoke of his drainage ditch, we are in land planning and the issues that he has need to be addressed through the Engineer's Office and the law basically dictates not to allow any increase in runoff from what is going on at the present time and they monitor it.

Mr. Potter said so we have to rely on the County Engineer's Office and so forth, and their expertise so as not to increase your problem – and the same thing with many a traffic situation - no one at this table is a professional traffic Engineer so, again we defer it to the professionals to be addressed by the professionals.

Mr. Bullington made a motion to approve zone change from R-1A to C-PUD, WCTZ 09-01, Robert Luck Interests, West Chester Township including staff comments. Mr. Disney seconded the motion. Motion carried.

AYES: Bullington, Disney, Cooney, Brown, Potter

NAYES: Tucker

Resolution: 09.42

FINAL PLATS FOR APPROVAL:

**Fairfield Ridge, Section 5,
Section 26, Town 2, Range 3
Fairfield Township**

Mr. Fehr showed an aerial map of the property (outlined in blue) and said this was tabled last month but they are back for approval today.

Mr. Fehr said the main entrance to the subdivision is currently off of Princeton Road and indicated its proximity to State Route 4, the County Engineer's Office and said this is the final plat approval for Section 5.

The entrance into Section 5 would be off of Fairfield Ridge Drive, which is currently stubbed to the property and there would be a stubbed street going to the northeast, and there would be a future phase here (pointed to on the map) at some point in the future.

Mr. Fehr showed a layout of the property and showed where it will be stubbed to the northeast and will include a note, "street to be extended in the future", and there is a proposed cul-de-sac street. The only thing that is a little bit unusual is the original farm house that was on the property will remain and will be a lot in the subdivision, however, it has an odd configuration but it will stay and this property (pointed to) will actually front along State Route 4. Mr. Fehr said there is an existing creek and you can see it is not really developable along State Route 4, we do have the 100-year Flood Plain boundary that is indicated on the plat as well as the new stream buffer requirement (a 75-foot buffer on either side of blue-line streams in Butler County).

Mr. Fehr said staff also had the applicant add a note regarding the plat stating that only the owner of this lot (pointed to) is allowed to have access to State Route 4, the reason that was done is to avoid people exiting the subdivision and they already have a driveway there so we really are not changing anything there today.

Mr. Fehr said the applicant has met all of the preliminary comments and staff does recommend approval.

Mr. Bullington asked if the 20-foot access that runs on Lot 8669 will be paved or just gravel.

Mr. Fehr said it is just an existing gravel driveway and will stay that way, but since it is a person's private property, they may choose to pave but for right now it is gravel.

Mr. Disney asked if Osage Drive will connect.

Mr. Fehr said they have stubbed the streets to each other pointing in the same direction but there is private property in between so they would actually have to develop it in the future, and we do have more than one access way in and out because Osage Drive exists here (pointed to on map) and this comes out to Princeton Road, and this street comes out to Princeton Road, but what would happen in the future is this street kind of wraps around and then stubs here (pointed to on map) with the thought that at some point maybe these properties in the middle could develop, and this was the old subdivision so Pleasant Ridge Drive stubbed to here and then once the new subdivision started it picked up and is a connection and you can drive back and forth.

Mr. Disney asked where Pleasant Ridge Drive ended.

Mr. Fehr pointed and said it will "T" in here (pointed to on the map).

Mr. Cooney made a motion to approve the final plat for Fairfield Ridge, Section 5, Section 26, Town 2, Range 3, Fairfield Township subject to staff conditions. Mr. Bullington seconded the motion. Motion carried.

AYES: Cooney, Bullington, Tucker, Brown, Disney, Potter

NAYES: None

Resolution: 09.43

**Winding Creek, Section 1
Replat Lots 10 & 11
Section 32, Town 2, Range 3
Liberty Township**

Mr. Fehr said staff received a call on Friday from the applicant stating that they were not prepared to proceed with today's meeting and staff requires some changes on the replat drawing and they were not ready and asked for this to be tabled until the October meeting.

Mr. Bullington made a motion to accept the applicant's request to table Winding Creek, Section 1, Replat Lots 10 & 11, Section 32, Town 2, Range 3, Liberty Township. Mr. Tucker seconded the motion. Motion carried.

AYES: Bullington, Tucker, Cooney, Brown, Disney, Potter
Potter

NAYES: None

Resolution# 09.44

OTHER BUSINESS:

**C.A.F. Business Park – Request to modify the Preliminary Plat approval
comments
Liberty Township**

Mr. Fehr said staff does not get these requests very often but we felt it needed to be done in a formal setting with approval by the Board.

Mr. Fehr said the Planning Commission approved this preliminary plat earlier this year and the usual staff comments. The applicant has been working with our office and Mr. Dirksing (Butler County Soil & Water Conservation) and the applicant felt that some of the comments that we put in there were damaging his ability to market the property, was an expense on his end and asked if we could modify or change some of the staff comments and we did not feel comfortable telling him that we would just do that, we wanted it to be formally approved by the Board, and without going into great detail of the conservations with the developer, Mr. Dirksing came up with some revised language.

Mr. Fehr said, in his memo which he sent out previously, to show what staff's comments were previously, and the applicant had an issue with comments 14 and 15 and Mr. Dirksing modified the language a little bit and gave it to the applicant and developer and probably was not totally satisfied but said he would support the way it was modified by Mr. Dirksing and said he was not going to come to this meeting today so long as the Board approved it as is.

Mr. Fehr said it generally has to do with permitting requirements and whether we will require some studies done or whether it is Army Corps of Engineers, so, what staff is recommending is that we approve C.A.F. Business Park preliminary plat subject to the staff comments that are in the Board members' packets and basically we can do a re-approval and will start the clock over today for two years and felt this would be less confusing for everyone and he put in bold type comments 14 and 15 revised language and recommended that the preliminary plat get re-approved with the new language, which is satisfactory to Soil & Water Conservation and satisfactory to the applicant.

Mr. Cooney said both of these conditions are on the areas that have been impacted as a result of development and who is going to determine whether they have been impacted once development begins.

Mr. Fehr said part of the problem for us is when we approved the preliminary plat we don't actually have the Construction Drawings, which show specifics.

Mr. Cooney said so staff will have another "bite of the apple" and will ultimately determine whether there is impact.

Mr. Fehr said when they submit these Construction Drawings, a set is distributed to the Butler County Engineer's Office, Butler Soil & Water Conservation and Sewer & Water Department and we will look at that and see how they propose to move the dirt around, and our preference would be for them to leave the area alone, but if they choose to move dirt around, Mr. Dirksing's office will address any issues.

Mr. Bullington said he had a similar question, the way it used to read, more than 200 feet is filled in, and from here it says a stream impact – and asked if that means any impact at all.

Mr. Dirksing said 300 feet since then Army Corps of Engineer's has revised that.

Mr. Fehr said another issue the applicant had was, "well, you approved it this way two years ago, so what gives?" well, if it is not developed during those two years and the regulations change, well, then you have to meet the new regulations.

Mr. Bullington said 200 feet was the old way but now it says if the streams are impacted.

Mr. Dirksing said Army Corps wants pre-construction notification.

Mr. Fehr reminded the group that no one is saying they can't, it is just stating that they need to notify them with their intent and how it will impact a stream.

Mr. Bullington made a motion to approve the applicants request to modify the Preliminary Plat approval comments as submitted by staff here. Mr. Cooney seconded the motion. Motion carried.

AYES: Bullington, Cooney, Tucker, Brown, Disney, Potter

NAYES: None

Resolution# 09.45

Introduction of Volunteers

Mr. Fehr introduced Mr. Rob Chambers and Mr. Samuel Thomas, both present, and stated they are working as volunteers to assist the Department of Development for the fall. Mr. Chambers is a student at Miami University and Mr. Thomas graduated with a Bachelor's degree in geography and recently moved to Ohio from Oregon, with his wife, who is attending Miami University, and he is looking for employment.

Mr. Fehr said staff appreciates Rob's and Sam's time and efforts and are happy because there is plenty to do.

ADJOURNMENT:

Mr. Tucker made a motion to adjourn. Mr. Bullington 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 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 same and must be prepaid.

Hamilton, Ohio
September 8, 2009

Chair

Secretary

Lee Margraf