

**BUTLER COUNTY  
PLANNING COMMISSION  
Meeting Minutes**



**MEETING:** Tuesday, September 11, 2012; 3:00 p.m.

**ROLL CALL:**

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

**Absent:** Lynn Nevel

**Staff present:** Peter Z. Acuff, Planning Administrator  
David Fehr, AICP, Director of Development  
Lee Margraf, Administrative Secretary  
Eric Pottenger, Butler County Engineers Office

**APPROVAL OF MINUTES:**

July 10, 2012 Meeting Minutes

Mr. Potter made a motion to approve the July 10, 2012 Meeting Minutes as submitted. Mr. Brown seconded the motion. Motion carried 5-0.

AYES: Potter, Brown, Barnes, Cooney, Bullington

NAYES: None

**ZONE CHANGES:** None

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Ms. Wiant arrived shortly after approval of Minutes.

**FINAL PLATS:**

**Gano Subdivision, Replat Lots 27, 28, 34 & 35  
Section 20, Town 3, Range 2  
West Chester Township**

Mr. Acuff showed an aerial image of the property (highlighted in yellow) and said there are two (2) houses on one (1) lot; the applicant is looking to split the parcel into three (3) lots and would allow each house to be on its own individual, separate lot.

Mr. Acuff showed a plat map of the subdivision and showed the houses.

Mr. Acuff said there is a carport on the south side of the middle house; the proposed property line runs along the south edge of the carport such that the side setback required cannot be met. The applicant has indicated that the carport is to be removed in the spring, but West Chester Township does not want to create non-conformity by approving the new property line while the carport exists

Mr. Acuff said staff recommends tabling this until the carport is removed or the applicant seeks a variance for the side setback, otherwise it would create a non-conforming lot. West Chester Township concurs with the recommendation to table.

Mr. Potter made a motion to table final plat for Gano Subdivision, Replat Lots 27, 28, 34 & 35, Section 20, Town 3, Range 2, West Chester Township. Mr. Brown seconded the motion. Motion carried 6-0.

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

NAYES: None

**RESOLUTION #: 12.50**

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**Treillage, Section One, Replat of Lots 42, 70, 87, 90, 91, 93, 124, 133, 135 & 136,  
Section 12, Town 2, Range 2  
West Chester Township**

Mr. Acuff showed an aerial image of the property and indicated its proximity to Hamilton-Mason Road.

Mr. Acuff showed a plat map of the area and said he is not sure if the house has been constructed.

Mr. Acuff said the proposed changes will make the six (6) bubble lots (outlined in red) be absorbed and they will become part of the open space.

Mr. Acuff reviewed staff comments and said all of the issues raised by staff have been corrected and staff recommends approval.

No questions or comments from the Planning Commission.

Mr. Bullington made a motion to approve the final plat for Treillage, Section One, Replat of Lots 42, 70, 87, 90, 91, 93, 124, 133, 135 & 136, Section 12, Town 2, Range 2, West Chester Township. Ms. Wiant seconded the motion. Motion carried 6-0.

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

NAYES: None

**Resolution #: 12. 51**

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**The Sanctuary of Liberty, Phase One, Replat of Lots 13 & 14,  
Section 33, Town 3, Range 3,  
Liberty Township**

Mr. Acuff showed an aerial map and plat map of the property.

Mr. Acuff reviewed staff comments and stated he received a revised plat with two (2) staff comments pending, including sidewalk completion prior to it being recorded and the Tax Map Office will need the same exact names as ownership listed on both parcels. No questions or comments from the Planning Commission.

Mr. Cooney made a motion to approve the replat for The Sanctuary of Liberty, Phase One, Replat of Lots 13 & 14, Section 33, Town 3, Range 3, Liberty Township. Ms. Wiant seconded the motion. Motion carried.

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

NAYES: None

**Resolution #: 12. 52**

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**Winding Creek, Section 4  
Section 23, Town 3, Range 3  
Liberty Township**

Mr. Acuff showed an aerial image of the property and a plat map and reviewed the staff comments and said staff recommends approval subject to staff comments.

No questions or comments from the Planning Commission.

Mr. Brown made a motion to approve the final plat for Winding Creek, Section 4, Section 23, Town 3, Range 3, Liberty Township, subject to staff comments. Mr. Potter seconded the motion. Motion carried 6-0.

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

OTHER BUSINESS:

**Wayne Township Court of Appeals Decision**

Mr. Acuff said Wayne Township Board of Zoning Appeals had a request for a conditional use for a Halloween-themed nature walk/haunted trail located at the end of a dead end road and some of the concerns raised were lack of lighting and traffic. During the hearing, the applicant stated they expected approximately 500 cars per night. One of the Board members had made some calls around to other local townships who suggested the volume of traffic would be more like 1,500 cars per night. The applicant's request was denied at the BZA. The applicants appealed and, long story short, the Court of Appeals upheld the BZA's decision, but with a warning back to the BZA ultimately that ex parte conversations, such as those the Board member made, are a "no-no"; because the applicant did not have any opportunity to cross-examine the board member, or to ask where they arrived at the 1,500 cars estimate, and their claim was it violated due process and lacked the opportunity to rebuttal.

Mr. Fehr said basically the lesson learned is, for example the zone change last month, if board members went out on the site and happened to run into a neighbor, and they say, "let me tell you about all the traffic and noise....," you have to refrain from talking to people out in the field or away from the public hearing, and while you might think it would be considered doing your job to talk with the neighbors, you really are only hurting their case. He added if this situation should occur, he recommends stating "I want to hear your comments but they have to be done at a public meeting for all parties to hear the testimony" and that is the lesson to come out of this. So doing your own research is a "no-no" because the other side does not get the opportunity to ask questions or critique the comments she got from the other offices, so that is all we were trying to bring this to your attention – it doesn't happen to this board so much as to Board of Zoning Appeals, and he instructed the members if they get into such a situation, just tell the people you would like to hear their comments but it must be done at a public meeting, and this applies to phone calls as well, you need to refrain from talking about cases – with the applicants or the opponents involved. Everything should be done at the public meeting for all parties to hear and have the opportunity to make comments.

**ADJOURNMENT:**

Mr. Potter 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.

Hamilton, Ohio  
September 11, 2012

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Chair

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Secretary

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Lee Margraf