



Butler County Planning Commission

Government Services Center, Conference Room #1
315 High Street, Hamilton, Ohio

Meeting Minutes

MEETING: Tuesday, October 13, 2020, 3:00 p.m.

ROLL CALL:

Present: Bruce Jones, *Chair*
Amy Updike
Beth Surber
Lonnie Lewis
Dave Baker
Steve Brown

Absent: Kevin Cooney
Bernard “Buck” Rumpke

Staff Present: Peter Z. Acuff, Dept. of Development
David Fehr, Dept. of Development

Mr. Jones called the meeting to order with roll call at 3:00 p.m.

APPROVAL OF MEETING MINUTES

Mr. Lewis made a motion to approve the September 8 Meeting Minutes. Ms. Surber seconded the motion. Motion carried 5-0-1.

AYES: Lewis, Surber, Updike, Baker, Jones

NAYES: None

ABSTAIN: Brown

FINAL PLATS

Westview Meadows, Section Four

*Section 9, Town 3, Range 2
West Chester Township*

Mr. Acuff stated this is a residential development covering 19 lots on 6.3 acres. He reviewed staff comments with the board. Subject to those comments, staff recommends approval of this final plat.

Mr. Jones asked a question regarding the nature of the emergency access to Laray Drive. Mr. Acuff clarified that there is not a paved roadway in that location, just an open space that could provide access if needed.

Mr. Brown made a motion to approve **Westview Meadows, Section Four**, per staff comments. Mr. Lewis seconded this. Motion carried 6-0.

AYES: Brown, Lewis, Surber, Updike, Baker, Jones
NAYES: None
ABSTAIN: None

RESOLUTION#: 20.46

Westview Meadows, Section Five

*Section 9, Town 3, Range 2
West Chester Township*

Mr. Acuff presented this residential development including 25 lots on 16.5 acres and reviewed staff comments with the board. Subject to those comments, staff recommends approval of this final plat.

Mr. Lewis made a motion to approve **Westview Meadows, Section Five**, per staff comments. Ms. Surber seconded the motion. Motion carried 6-0.

AYES: Lewis, Surber, Updike, Baker, Brown, Jones
NAYES: None
ABSTAIN: None

RESOLUTION#: 20.47

ZONE CHANGES

RZC 20-03, Land of Illusion, A-1/R-1/B-3 to B-PUD

8762 Thomas Road

Section 1, Town 2, Range 4 and Section 36, Town 3, Range 4

Madison Township

Mr. Acuff presented this request for a zone change on Thomas Road in northeast Madison Township. The applicant, Jonathan Woche, proposes to rezone eight parcels to B-PUD with the purpose of expanding the Land of Illusion theme park.

Mr. Acuff reviewed the current zoning of the parcels and the existing land uses in the surrounding area. He then presented the County's staff report, including a history of commercial use of the subject site, past zone change cases, and staff finding and comments.

Mr. Acuff related that he had received a handful of public comments via email, which had been forwarded to the Commission for their review. He also noted that he received a letter from two of the Madison Township Trustees, via email from Township Administrator Todd Farler, just before the meeting today. At Chairman Jones' direction, Mr. Acuff read the Trustees' letter aloud for the record.

In conclusion, Mr. Acuff stated that County staff recommends denial of the zone change application, due to unresolved questions of traffic safety, sanitary wastewater treatment, storm water management, and public safety service adequacy.

Applicant Presentation: Jonathan Woche, McBride Dale Clarion, Dragon Way, Cincinnati, OH

Mr. Woche introduced himself as a planning consultant for Mr. Oakley. He reminded the Planning Commission that they had recommended approval of the previous application for this case, which was presented earlier in the year. The current application is less intense and has been reduced in scope. The applicant withdrew the previous application based on information received at the public hearings; they believe the revised application responds to comments heard during the process and requests the Planning Commission recommend approval.

Mr. Woche reviewed the request for B-PUD zoning and discussed the process of preliminary PUD approval vs. final PUD approval. He stated that the benefit of the PUD is that it provides long-term guidance for the development of unique land uses, such as the 10-20 year multi-phase development of Land of Illusion.

Mr. Woche relayed to the Commission the project vision for Land of Illusion: a family-oriented, all-weather adventure and recreation destination for a regional audience. This PUD would allow the park to expand beyond the existing haunt park to a year-round attraction.

Mr. Wocher discussed the revisions to the plan since the June Planning Commission hearing, resulting in 22 acres less development and lower intensity overall. He then outlined the twelve areas of the proposed development plan, including a future new roadway entrance for the campground and hotel. North of the existing haunt areas would be an expansion of the outdoor Aqua Adventures water park, adjacent to the proposed indoor water park and 250-room theme hotel (with the number of rooms to be expanded in the future as the market allows). An outdoor adventure area (zip lines, hiking, and obstacle courses) would follow the creek and wrap around the other development. At the very north of the site, a 140-site RV/tent campground (operated by Jellystone) and cabins would occupy a currently agricultural area.

Mr. Wocher continued by describing the proposed heights of the project (up to 100 feet in the core of the park) and the perimeter buffer. He stressed that the emphasis of the revised plan was to focus the intensity of the project toward the southwest and away from the neighbors to the east and north.

Mr. Wocher also mentioned that the existing sanitary sewage treatment for the site is located at the southwest corner in Area 5. They have spoken preliminarily with Kevin Chandler from Ohio EPA and presented the same information to them. OEPA has not granted any approvals but Mr. Wocher said that OEPA had made it clear to Land of Illusion that a degradation permit will be needed: any discharge into the stream would have to be approved by OEPA, as well as design capacity of any on-site treatment. The project would also have to have stormwater protection plans approved by OEPA.

Water service is currently available to the site; the applicant understands there will be additional information needed. They are a water park, they want to be larger water park, and so they take water issues very seriously and will work with the authorities on that.

Mr. Wocher briefly touched on traffic management, stating that they have committed to preparing traffic impact studies for each phase of the development as the final plans come in. They are committed to making the improvements to the roads that are needed to mitigate the traffic impacts. If a turn lane or traffic light is needed as a result of the traffic study, Land of Illusion is aware that is an obligation they are required to fulfill. They continue to believe that access onto Route 4 is a better alternative [to using Thomas Road] and they remain optimistic that once the County approves the plans, ODOT will work with LOI and look at alternatives that allow direct access. If that doesn't happen, LOI is confident they can make the improvements to Thomas Road based on the traffic studies.

Mr. Wocher then showed a drone video of the project site, showing existing development and proposed expansion areas. He outlined the phasing schedule over five to twenty years for the project and discussed projected economic benefits of the development.

Mr. Wocher concluded his presentation by reviewing the Rural Zoning Resolution requirements for a planned unit development. He commented that the Madison Township Land Use Plan did not match the current zoning map and was therefore

outdated and not applicable to the case. He mentioned 22 conditions they have proposed to place on the PUD to address concerns of the county. Mr. Woche closed by referencing the number of attendees that were supportive of the expansion plans and requesting that the Planning Commission recommend approval.

Scott Phillips, legal counsel with Frost Brown Todd, asked Chairman Jones if he could reserve five minutes at the end of the hearing to summarize legal concerns based on what will be spoken tonight. Mr. Jones commented that to grant such a request would vary from the Planning Commission's typical procedures, therefore Mr. Phillips should present his comments at the present time.

Mr. Phillips stated that his focus is more on the legal issues involved in the case and to address concerns raised by the neighbors. He stated that his team was surprised to receive a County staff report that said that not having a traffic study or not having a final solution on sewer was a problem. Up to this point, they had been operating under the belief that these issues could be resolved in the future as each phase is developed. He stated the Land of Illusion was committed to not getting a final development permit until they meet the criteria that are in the code.

Mr. Phillips also stated that he had concerns about the county's reliance on the Madison Township Land Use Plan. He said that land use plans should be updated every five to ten years; this one hasn't been updated in over twenty years and it's problematic from a legal perspective.

Mr. Phillips addressed concerns raised by the neighbors regarding noise. He said that based on their expert studies, they don't think any noise problems exist and the levels of concert noise are consistent with the ambient noise of the area.

Mr. Phillips stated that they are committed to working out any concerns about the project and that it doesn't benefit them from a business perspective to have issues with their neighbors.

Thus concludes the applicant's presentation.

Testimony in favor:

Chairman Jones then called for public testimony in favor of the application. He reminded potential speakers to state their name and address and asked that comments be kept to three minutes or less.

Ryan Perry, 6338 Hursh Road, Middletown. General Manager of Land of Illusion and lifelong resident of Madison Township. He expressed his support for the expansion and its benefits for the community.

Michael McKnight, 401 West Martindale, Eaton, OH. Has worked at Lol since 2014; currently advertising and marketing lead. Enjoys the positive, happy atmosphere at Land of Illusion. Wants Lol to be a family-oriented adventure park to bring families together, especially single-parent households and those on fixed incomes.

Mike McCoppin, 6465 West Alexandria Road, Middletown. Owner of Rowe Sports Complex in Madison Township. Had to go through rezoning process with neighbors'

objections; no problems realized in the ten years since. Potential economic benefits are being lost to Warren County because not enough restaurants, hotels, gas stations near the ballpark to capture the demand. Would welcome Lol expansion to drive more local economic development and contribute to the local tax base.

Testimony in opposition:

Allison Manning, 7520 Hollyview Drive, Middletown – Asked if this is the right concept and the right developer for this area? Provided a prepared handout to the Commission. Concerns: noise, traffic, infrastructure, safety, health, land use, taxpayer costs, environmental permitting, comparables, and alternatives.

Susan Caudill, 6987 Franklin Madison Road, Middletown - Provided map showing residents that have complained about the noise, discussed township noise ordinance, concerns that 50-foot buffer is insufficient when noise can be heard a mile or more away. Initially, disruptions were just three months a year [for the haunted trail], then Christmas trail was added in 2017, the water park in 2018, and now biker nights on Thursdays. Proposed expansion and construction noise would affect her quality of life year-round and ability to work from home. Brett Oakley and Land of Illusion have never been good neighbors in Madison Township.

Samuel Elam, 7083 Franklin Madison Road, Middletown - Thomas Road is a narrow country road; he can't imagine trying to get a camper around the S-curves east of Route 4. Taxpayers would have to incur long-term maintenance costs of improved roads that benefit only Land of Illusion.

Matt Richardson, 8923 Thomas Road, Middletown - ODOT has designated Route 4 as a limited access road and has repeatedly denied Land of Illusion access to Route 4. Concerns that traffic at this point restricts emergency vehicle access; further growth will lead to longer response times.

Ryan Spears, 7520 Hollyview Lane, Middletown - Improvements would be needed to public water system. Discussed injuries inherent in water parks and amount of water needed to fill the park and maintain the hotel. Sanitary sewer – 100 gal/person/day; 80,000 gal water per day estimated for hotel. Sanitary treatment would require 1.4 tons of solid wastes removed per year, just for the hotel.

Michelle Maddox, 6459 Kalbfleisch Road, Middletown – Madison Township only has two volunteer fire stations and one FTE EMS. Township does not have a ladder truck [as would be needed for the proposed hotel]. Public safety improvements to adequately serve Land of Illusion would be approx. 3 million dollars, equivalent to Township's entire annual budget. Crime will increase with bringing more people into the Township. Also, per Township, the land use plan is current with no intention to update anytime soon because there has been little change.

Michael Gross, 2208 Middletown Eaton Road - Property is not located in a TIF or JEDD district, so growth will be of limited benefit to Township outside of property taxes – no income tax or sales tax benefit to Madison Township. Land of Illusion has disregarded permit processes in the past and is not a quality neighbor.

Shannon Day, 7083 Franklin Madison Road, Middletown - Concerned about prior history of Lol ignoring permits. Storm water runoff has impacted their property and flooded local roads. Also discussed Kings Island and Lesourdsville Lake amusement parks.

Eddie Crowe, 8300 Franklin Madison Road, Franklin - Lives on Franklin Township side of Franklin Madison Road. Discussed benefits of country living and expressed concern at having Land of Illusion expand in his and neighbors' backyards.

Darrell Richardson, 6931 Franklin Madison Road, Middletown - Lives 1,837 feet away and can hear it from inside his home. Concerned about 2007 filming of an adult movie at Land of Illusion; good neighbors don't engage in this sort of behavior or invite "outlaw biker gangs" to the community.

Neutral testimony: None

Chairman Jones closed the public testimony portion of the hearing.

Board Discussion:

Ms. Surber asked a series of questions of the applicant:

- Did conversations with State Fire Marshall indicating code compliance refer to existing or planned operations?
 - Mr. Wocher referred to the letter submitted by the applicant from the Fire Marshall, stated that compliance based on past annual inspections because future building plans not yet prepared.
- Phased development was described as market-driven. Can applicant speak to studies of anticipated demand?
 - Mr. Wocher doesn't know specifics of market studies. The stated growth projections are based on what Mr. Oakley has observed over the years. Would be willing to provide additional information to the County
- Did you consider possibility of seeking zone change for each phase as they are developed?
 - Mr Wocher replied that County Staff has asked for an overall PUD plan; Mr. Oakley would find it easier to go straight zoning (less cost, less need to nail down specifics of future plans). In order to expand the way they need to, Lol needs to have an understanding of the full development and County approvals to raise capital and recruit developers.

Ms. Updike asked if there is a plan to reevaluate the Township's 2001 land use plan? Mr. Acuff stated that is not aware of any plans to update the document at this time.

Chairman Jones asked Mr. Acuff to review the next steps in the zone change process, including recommendations to the Rural Zoning Commission and County Commissioners.

Ms. Surber commented that she thinks the request for the zone change to PUD is appropriate in the level of control that it offers. With respect to the Land Use Plan, she doesn't believe that the expectation is for agricultural uses to remain for an extended period of time. In an area where development is taking place, albeit slowly,

the expectation is that change will occur in the future. She doesn't feel that the proposed expansion is out of character with what exists on the site today.

Voting:

Mr. Lewis made a motion to concur with the staff recommendation to deny the request, per staff comments. This motion died for lack of a second.

For purposes of resolution, Mr. Jones made a motion to recommend approval of **RZC 20-03, Land of Illusion, A-1/R-1/B-3 to B-PUD**, subject to staff comments. Ms. Surber seconded this. Motion failed 2-3-1.

AYES: Lewis, Surber
NAYES: Updike, Brown, Jones
ABSTAIN: Baker

Mr. Lewis made a motion to recommend denial of **RZC 20-03, Land of Illusion, A-1/R-1/B-3 to B-PUD**, in concurrence with staff comments. Mr. Brown seconded this. Motion carried 4-1-1.

AYES: Lewis, Brown, Updike, Jones
NAYES: Surber
ABSTAIN: Baker

RESOLUTION#: 20.48

ADJOURNMENT

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

Hamilton, Ohio

October 13, 2020

Chair

Secretary