



MEDINA COUNTY PLANNING COMMISSION
MINUTES OF MEETING
WEDNESDAY, JULY 6, 2016, 6:30 P.M.
PROFESSIONAL BUILDING, LOWER LEVEL CONFERENCE ROOM

Attendees / Representing (from sign-in sheet):

David Borling, Litchfield Township
Joe Burgoon, Lewis Land Professionals
Dan McVay, Briarthorn Inc

MCPC Members and Alternates in Attendance:

MCPC Members:

Mark Kolesar
Jeff Brandon
Paul Jeffers

MCPC Alternates:

Ray Schulte, (for Colene Conley)
Kevin Ball, (for Tim Smith)
David Williams, (for Pat Geissman)
Jerry Cook, (for Adam Friedrich)

MCDPS Staff:

Cheryl Heinly, Administrative Assistant
Rob Henwood, Planning Director

Second Vice President Jeff Brandon called the meeting to order at 6:30 p.m. and began with the Pledge of Allegiance.

I. ROLL CALL

Mr. Brandon asked Ms. Heinly to call the roll. Mr. Brandon, Mr. Jeffers, Mr. Kolesar, Mr. Schulte, Mr. Ball, Mr. Williams, and Mr. Cook were all present at the time roll was called.

II. MINUTES

Mr. Brandon asked if there were any questions or comments regarding the June 1, 2016 minutes. There was none.

Mr. Jeffers moved to approve the June 1, 2016 minutes as presented. Mr. Ball seconded the motion. All voted AYE and the motion carried.

III. CORRESPONDENCE

Mr. Henwood stated that he had no correspondence.

IV. CONSENT CALENDAR

There were no items on the Consent Calendar.

V. OLD BUSINESS

There were no items on Old Business.

VI. NEW BUSINESS

A. Colonial Hills, Ph II, 057-2016 FP, Final Plat, Sharon Twp

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located south of Fixler Road and west of Colonial Hills Drive.

The applicant proposes the following:¹

- Create nine sublots (27 through 35).
 - Vacate the existing temporary turn-around easement at the current terminus of Beacon Hill Drive.
 - Extend Beacon Hill Drive, a public street with a 60-foot right-of-way (ROW), approximately 860 feet to the western boundary of the subject site.
 - Create the following on the western end of the proposed Beacon Hill Drive extension:
 - A temporary turn-around easement to be vacated upon the extension of the street.
 - Create a 10-foot reservation strip across the ROW limiting access; the reservation is to be vacated upon extension of the street.
 - Create the following easements:
 - Typical 12-foot utility easements outside the street ROW.
 - 1.2614 acre storm water management and access easement on Sublots 35 and 34.
 - 0.0282 acre storm water management and access easement on Sublots 27.
- 0.4099 acre Riparian Easement on Sublots 27 and 28.

The Preliminary Plan for the Colonial Hills Subdivision was originally approved by the Medina County Planning Commission (MCPC) in March of 1997. The MCPC approved the Phase 1 Final Plat in December of 1998. Phase 1 is built out. The most recent Preliminary Plan was approved in May of 2015.

Discussion:

Planning Board member Mr. Cook commented regarding the gas line easement. He wondered to whom it belonged. Mr. Henwood said he did not know and would have to defer to the applicant.

Planning Board member Mr. Wadsworth asked about construction already being started. Mr. Henwood explained that once the Preliminary Plan is approved they could go forward with construction. He said the applicant does that at their own peril, as there could be changes at the Final Plat that could change the configuration of the subdivision.

Mr. Joe Burgoon, Lewis Land Professionals, stated that the gas line easement is a private company. He said they are working on the Army Corp letter and they are handling the

¹ For the purposes of this staff review, the following Final Plat document was utilized: Colonial Hills Subdivision Phase 2. Lewis Land Professionals, Inc.: Project No. 15-348, Drawing Name: 15-348 PLAT.dwg. 3 Sheets. Date stamped by DPS staff on June 6, 2016.

surveying and platting process. He said Neil Jones, the zoning inspector from Sharon Twp, did give them the variance document number. Mr. Burgoon said the variance on subplot 35 is for the width of the flagpole going back to the main parcel. Sharon Township zoning minimum is 60-feet and they were just a “hair” short at 59-feet. He said all the other comments would be taken care of.

Mr. Cook moved to approve staff recommendations of Approval with Modifications for the Colonial Hills, Phase Two, Final Plat. Mr. Jeffers seconded the motion. All voted AYE and the motion carried.

B. Litchfield Township Text Amendment, 055-2016 TA

Ms. Hirsch presented the staff report to the Commission regarding the above captioned text amendment regarding revising Articles I, II, III, V, VIII, and IX.

The Litchfield Township Zoning Commission proposes to amend Articles 1-3, 5, 8 and 9 of their Zoning Resolution. The LTZC has been working with the Department of Planning Services and the Prosecutor’s Office since June of 2013 when proposed revisions for Articles 1-3 were first submitted. Subsequently, a Text Amendment for Articles 1-3 was heard by Planning Commission at their October 7, 2015 meeting and an Informal Review for Articles 1-3, 5, 8 and 9 was conducted in November of 2015.

Discussion:

David Borling, Litchfield Township Zoning Commission, said they would consider the Prosecutor office and staff comments. He said they took some of the old and “scotched taped” new things together. He thanked the staff for putting this together.

Planning Board member Mr. Jeffers asked why the Prosecutor’s office felt nuisances should be removed from the zoning resolution. He said per the ORC, Section 505.06 and Section 173, they discuss abatement of buildings and junk vehicles. He asked why that would not be included if the trustees have the authority to enforce junk or inoperable vehicles. Ms. Hirsch said it was under police as opposed to zoning. Planning Board member Mr. Jeffers said no. He said when they go to the zoning meetings they are told that is an enforcement tool they can use.

Mr. Henwood said his understanding is because of where it falls in the ORC (Ohio Revised Code); it does fall within the jurisdiction of the trustees, but not under the same sections of the ORC that allows for zoning authority for Townships. He said yes, it is a tool that the Township can use, but it is by definition not zoning. It falls in a different section of the ORC. Mr. Henwood stated that the Township could use those sections of the ORC in order to deal with nuisances and junk vehicles, but because it is not in the same section as zoning it is not the same kind of power.

Planning Board member Mr. Cook said he saw the same thing in the Hinckley Zoning Resolution. Mr. Henwood stated again that by definition it is not a zoning power.

Planning Board member Mr. Jeffers asked with Section 302.01, the subdivision of parcels why that was not considered a purview of zoning. Mr. Henwood said that was for the Planning Commission. Planning Board member Mr. Jeffers then asked why the Township would not have any say in how that is being subdivided. Ms. Hirsch said that their role is to make sure it meets zoning. Planning Board member Mr. Jeffers thought that was why the Township made sure it met their code first and then goes on to the County.

Mr. Henwood stated that yes, in order to comply with the Subdivision Regulations they are required to meet zoning. He said they could not write in the zoning that they are not required to go through the subdivision process. Mr. Henwood stated that references indicate that this is required; often references are made to ORC sections, but they cannot with zoning attempt to regulate the subdivision process. He said the thought with that is if you are speaking about the actual subdivision process, it is best to leave it alone. Planning Board member Mr. Jeffers asked where does that leave the gray area and if they skip zoning altogether. Mr. Henwood said if an applicant came in with a project that was not signed off by the Township indicating zoning compliance then it would be sent back. He said the applicant has to comply with zoning no matter what. Mr. Henwood said an analogy would be that the Township could not regulate speeding in the zoning code because it is a different part of the law.

Planning Board member Mr. Jeffers questioned in Section 505, as it discusses the rebuilding of a non-conforming parcel. He said if it is taken out and they could not rebuild, would and he wondered if the Township would be liable for making that parcel unmarketable. Ms. Hirsch said they could not rebuild what was there before if more than 60% is destroyed. She said for example with a parcel that is an acre and a half the owner would have to get a variance and they would obviously would have a hardship so they need a variance to rebuild. Planning Board member Mr. Jeffers said they still could be subject to not getting the variance and not be able to commit to the mortgage. Ms. Hirsch thought this is why some of the courts are saying to take out the percentages. Planning Board member Mr. Jeffers said he is looking at the financing part of it as well, because a person could be “stuck between a rock and a hard place” if something happened.

Planning Board member Mr. Kolesar stated that the lender requires documentation from the government agency if something would happen. Planning Board member Mr. Jeffers said that the situation now is that they may have already had that in the file, but now it does not hold if they change their code. Ms. Hirsch said “they” are suggesting taking that out.

Litchfield Township Zoning Chair Mr. Borling stated regarding the nonconforming, they ‘danced’ with that one for a while. He said they did take out the percentage because of the very reasons that were stated. He stated they added demolition because some construction can become unsafe and the owner will have to demolish it and there was no provision allowing it voluntarily and then rebuild it.

Litchfield Township Zoning Chair Mr. Borling said regarding the nuisance, in part of redoing their text amendments he looked at most of the Townships in the County and they all have nuisance in their [zoning resolution]. He said in the last revision all members attended and a majority felt they should keep nuisance in to alert their constituents. Mr. Borling acknowledged that the Prosecutor’s office and Planning staff is saying to reconsider so he will bring it up to his members.

Also brought up by Litchfield Township Zoning Chair Mr. Borling was the fact that Litchfield Township has a lot of back lot development. He said that the trustees said they would not curtail and it would continue. The issue of access did come up and since the road parcels on the main roads, SR 83 and SR 18, have commercial in the front if someone wants residential in the back, then everyone will make the access 30-feet as they are seeing with some of the accesses. Mr. Borling gave an example of a 2-acre access that could support a commercial building in front of a residential structure all being on the same parcel. He explained that is why they want the access strip rezoned to all residential.

Planning Board member Mr. Cook said if they remember there was a large parcel on SR 18 at or around where the new drugstore is located. He said the owner had a very difficult time getting a

buyer and came in for a variance because part of the property was commercial and part was residential. The owners could not get a lender unless it was zoned one way or the other.

Mr. Cook stated that it was disputed as to whether or not they were entitled to it and he thought they should get the variance so they could...inaudible...their property. He reiterated the problem is that the underwriters want to see one zoning or the other. He said the approach that Litchfield Township is taking would avoid those problems.

Litchfield Township Zoning Chair Mr. Borling stated regarding the subdivisions, they are suggesting in the revision to move that to the Administrative section of the code. He said the reason for this is so homeowners know what path they have to take if they wanted to subdivide their property.

Mr. Kolesar moved to approve staff recommendations of Approval with Modifications for the Litchfield Township Text Amendment. In addition, it was recommended to add the comments in the letter from Mr. William Thorne, Assistant Prosecutor, dated July 6, 2016. Mr. Ball seconded the motion. All voted AYE and the motion carried.

VII. PLANNING DIRECTOR'S REPORT

Mr. Henwood said he had nothing to report this month.

VIII. PUBLIC PARTICIPATION

There was no Public Participation.

IX. OTHER BUSINESS

There was no Other Business.

X. ADJOURNMENT

Mr. Jeffers moved to adjourn the July 6, 2016 MCPC meeting at 7:11 p.m. Mr. Williams seconded the motion. All voted AYE and the motion carried.

Val Jesionek, President

Cheryl Heinly, Admin Asst.