



MEDINA COUNTY PLANNING COMMISSION
MINUTES OF MEETING
WEDNESDAY, JANUARY 4, 2017, 6:30 P.M.
PROFESSIONAL BUILDING, LOWER LEVEL CONFERENCE ROOM

Attendees / Representing (from sign-in sheet):

Tom Calton, self
Al Fulkerson, Brunswick Hills Township
Frank Maimone, Wadsworth Township

MCPC Members and Alternates in Attendance:

MCPC Members:

Mark Kolesar
Jeff Brandon
Paul Jeffers
Val Jesionek
Sally Albrecht

MCPC Alternates:

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

MCDPS Staff:

Cheryl Heinly, Admin Assistant
Rob Henwood, Planning Director

Planning Director Robert Henwood called the meeting to order at 6:30 p.m. and began with the Pledge of Allegiance. Mr. Henwood moved on saying since it is the beginning of the year; we vote on officers for the Board of the Planning Commission.

I. ELECTION OF OFFICERS

Mr. Henwood opened the floor for nominations. *Mr. Jeffers nominated Mr. Mark Kolesar for President, Mr. Jeff Brandon for Vice President, and Mr. Jerry Cook for Second Vice President.* There were no objections or comments, all the nominations for the appointed positions were accepted, as there were no other nominations. *Mr. Williams seconded the motion. All voted AYE and the motion passed.*

Mr. Henwood closed the floor to nominations and Mr. Kolesar took over the meeting.

II. ROLL CALL

Mr. Kolesar, Mr. Brandon, Ms. Albrecht, Mr. Jeffers, Mr. Williams, Mr. Cook, Mr. Schulte, and Ms. Jesionak were all present at the time roll was called.

III. MINUTES

Ms. Heinly stated that Ms. Albrecht had emailed her with questions regarding the Sharon Township Map Amendment, app #113-2016. Ms. Heinly said it was difficult to hear because the applicants did not stand at the microphone and had their backs to the staff at times. She said that she would try to work with the recording to see if she could hear more of what the real estate agent said. Ms. Heinly asked if the December minutes could be held and approved at the February meeting.

Ms. Heinly asked Ms. Albrecht if she wanted to add anything. Ms. Albrecht felt the applicant's testimony should be included because he addressed the concern that Mr. Henwood had for the recommendation of disapproval. She said since the Board decided to disapprove the disapproval, which is out of the norm, it should be in the minutes. Ms. Heinly agreed and reiterated it was difficult to hear because of where the applicants were standing. She said as this year progresses the Board can make a point of having the applicant stand at the microphone so we can all hear what is being said. Ms. Albrecht agreed. Ms. Heinly added that with the applicants standing at the Commission's table with their backs to staff, staff could not hear the applicants and it blocked the Commission's conversation as well.

Mr. Kolesar said he would make sure that any of the public that spoke stood at the microphone. Ms. Heinly thanked Mr. Kolesar.

Mr. Henwood added that when new material is brought, unless it is something that was seen before, staff could not speak to it. He said it was made clear that the applicants had to submit the documentation that was presented to the Commission so that it would be made part of the record. He said if he were to be asked to make a comment, he could not comment regarding something he has not seen prior to the meeting.

IV. CORRESPONDENCE

There was no Correspondence

V. CONSENT CALENDAR

There were no items on the Consent Calendar.

VI. OLD BUSINESS

There was no Old Business.

VII. NEW BUSINESS

A. Meadows of Southpointe, Ph V, 126-2016 R, Replat, Brunswick Hills Township

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located at the terminus of Baintree Court on the east side of the street in the Meadows of Southpointe subdivision.

The proposed Replat includes one subplot to be served by central sewer and water. Proposed Sublot 79 is to be created by combining Blocks E and L; both Blocks were designated to be used for future development in the Phase 2 and 4 Final Plats respectively.

The Medina County Planning Commission (MCPC) originally approved the Preliminary Plan for the Meadows of SouthPointe subdivision in May of 1999. Phase 1 of the subdivision was approved by the MCPC in February of 2000. The Preliminary Discussion was reviewed in January 1999.

As indicated above, the proposed subdivision intends to combine Blocks E and L to create Sublot 79. The original Preliminary Plan and the Revised Preliminary Plan show Block E as an Open Space Block. Given the fact that the approved Preliminary Plan indicates Block E is to be used for open space, the Phase Two Final Plat appears to have been approved in error (see Sheet 4 of the attached Phase Two Final Plat).

Block L was created by the Phase 4 Final Plat. This Block was created as a Block for future development as it was not wide enough for use as subplot per township zoning.

According to the official Brunswick Hills Township Zoning Map, the subject site is zoned R-1 Residential district. Per Section (§) 403-2(A) of the Brunswick Hills Township Zoning Resolution, single-family residential dwellings are permitted uses. Lot requirements include the following:

- Minimum lot size of 1,500 square feet (§ 403-3(A)).
- Minimum lot width at the building line of 90 feet (§ 403-3(B)).
- Minimum lot frontage of 60 feet (§ 403-3(C)).
- Minimum front yard depth (building line) of 50 feet (§ 403-4(A)).

Discussion:

Mr. Kolesar said that Mr. Henwood called the open space common area, and when the development was put in was it part of a HOA (homeowner's association). Mr. Henwood explained that both Block E and Block L were under the ownership of the HOA, it went to Sheriff's sale as the taxes were not paid, and was bought by an individual owner. The current applicant was not the current owner as the applicant purchased the open space in early 2016 and is looking for the approval.

Mr. Cook asked if Block “K” should be Block “L.” Mr. Henwood said yes, he would correct that.

Mr. Tom Calton, applicant, said before they purchased the land they wanted to make sure that they would be able to build on it as it was cheap and a great bargain for him. He said he went to the Brunswick zoning department and pulled up both parcels. At the time, he was told by the realtor, the builder, etc., that the lots were ready to be built on. Mr. Calton did say that his realtor did tell him to do his due diligence and to go to the zoning department and make sure he could build on the parcels.

Mr. Calton then went to the zoning department where she, (Ms. Evelyn Czyz, zoning inspector), pulled up everything and saw that each block on its own was not buildable. He asked Ms. Czyz if he put a driveway in Block L and put his house just as it meets into the front of Block E, facing the same way as the other houses, would that be a buildable lot. He said Ms. Czyz stated that she had not thought of that and it was a “great idea and she would approve that today.” Mr. Calton asked her if she would give that to him in writing and she had told him she would. He said she filled out a paper and he did say he had a paper if anybody wanted to see it. He said it stated what he had to do to combine the two lots along with a list of what he had to do.

Mr. Calton stated when he got a call from Mr. Henwood he was shocked as he was told nothing about the Planning office. He said that during that call he was told by Mr. Henwood that he would not be able to build so all his excitement turned into disbelief. He said since then it has cost him money, aggravation, and time and that he never expected to have to combine the lots.

Mr. Calton said he did not mean any disrespect in say this, but Mr. Henwood recommending disapproval where, “it appears to be a mistake.” He has not seen any document, minutes or anything else where it is stated that it should never have been recorded that way. Mr. Calton said on the plat is states in Phase 2, “it is the creation of Block E.” It said that Phase 2 was, “a creation of sublots 35 to 71 and E, M, G, H, and I. He said it was clearly reviewed and meant to be changed, as the Planning Commission had to go over all the plans. Mr. Calton asked if a Preliminary Plan could be changed and he was told yes, that was what you did in the Final Plat.

Mr. Calton said that in Mr. Henwood’s opinion it was overlooked by the Planning Commission when it was approved. He said Mr. Henwood told him the proper paperwork was there and it was not. He asked Mr. Henwood if he was making the decision without all the necessary paperwork. Mr. Calton said he knows the Preliminary Plan can be changed when it is at Final Plat and that was Phase 2.

Mr. Calton said he has not seen any proof that it was not meant to be changed, that this was in error, and he has proof that it was changed in Phases 2, 3 and 4. He said if you look on any record online it says, “future development.” He said the only time he ever saw the Preliminary Plan exist not online was when he went to the Planning office. He felt their desire to build their home on this land is not different than any other that has come through. He said it was platted as future development and he was trying to combine the land.

Mr. Calton stated that Ms. Czyz (Brunswick Hills zoning inspector) told him it would be fine and that is what gave him the confidence to put in the bid on the land. He said the surveyor had been doing this for 30 plus years and had never seen this happen.

Mr. Calton said in 2011 the Meadows of Southpointe foreclosed on the property and it was sold at sheriff’s sale. He did not understand how land could be lost yet maintain control of the property. He said even if the land was platted as open space in Phase 2, if they were not paying the taxes and the land was taken, they have no rights to that land. He said he was suffering

because of what Mr. Henwood said was possibly an error and all he wanted to do was build a house.

Mr. Calton said they are excited about the building process and living in the community. He hopes the Planning Commission approves the consideration for the two parcels so they can start a new chapter in their lives.

Mr. Calton added that he was upset that he was told that he had to have a turnaround. He said that the exact same thing on Westbury never had to have a cul-de-sac. He did not understand the change in rules and he would have to do it. He had a picture showing that it was the same as [his property] on both sides. He said it would dead end at exactly the same place as his drive would. Mr. Calton said the house that is on Westbury is the exact same position that his house would be except turned opposite.

Mr. Calton was upset because during the Replat, Mr. Henwood stated the original mylar was needed. Mr. Calton said when he turned in his application he brought the original mylar and he was told he at the time it was not needed, only 5 copies. Mr. Henwood interjected saying that was only standard procedure and the idea behind that was if Mr. Calton remembered the discussion, if it were to be approved, but then there were required changes, any signatures that had been obtained he would have to get again.

Mr. Calton asked the Planning Commission to consider that he has worked all his life for this. He thanked them for their time and consideration.

Al Fulkerson, Brunswick Hills Township Zoning Commission, asked if he was in the right meeting as to what the applicant was talking about in regards to the project. He said everything that was said the Township has no knowledge. He said the Township has no information at all. Mr. Fulkerson asked Mr. Calton when he went to the building department. Mr. Calton said the letter was June 29, 2016.

Mr. Fulkerson said the only information that the Zoning Commission had received was from the Planning Services office, which did not tell them a whole lot. He said as far as the plans that were submitted or discussed back in 1999, 2000, those are 17 years old and the Township is still in the dark. Mr. Fulkerson stated that he was not sure if the applicant was talking about building a home or a development. He said the Township wants to see everything; the land, what the applicant wants to do, and what is going on it, what they are going to wind up with, not just a blank piece of paper. Mr. Fulkerson said at this point, since this is just a house and not a development, he would disapprove this, come back to City Hall regarding his situation on his home.

Mr. Henwood said for the record, the Zoning Commission has no authority over this at all. He said this is a simple question of a building site being presented to the Township as to whether it met zoning or not. He said the proposal was to combine the properties and the zoning inspector, in his opinion, correctly informed the applicant in order to comply with zoning, if they would be combined, it would have in fact complied, and it would not have needed Zoning Commission review at all. A plat when it is being approved is required to be signed by the Trustees and so the requirement for the applicant to come before the Zoning Commission is actually erroneous in this particular instance.

Ms. Jesionek asked if the applicant started with a new Preliminary Plan since this does not comply with the original, would that be a starting point for the applicant. Mr. Henwood said it is in fact possible to do a revised Preliminary Plan. He felt that in this instance it would be overkill. Mr. Henwood said the purpose of a Preliminary Plan is to establish the layout, the character, the

road configurations, and in some cases access to the open space. He said what the applicant is looking for is the nature of the parcels to be changed. In order for someone to be able to build a house in a subdivision, it must be built on a subplot. He said the purpose for this particular review is the conversion of those pieces of land from blocks to a subplot. Mr. Henwood said a combination is required for the two and the nature of the parcels is changing and that is the reason for the Replat review. He said for the applicant to go through the process and revise a Preliminary Plan would be extraordinary costly and end up with the same type of staff review. He said the concern from staff was trying to avoid good money being thrown after bad. Mr. Henwood said if someone went through this process with the same intent, the Preliminary Plan process, they would not only have to do the replat, but would have to pay a \$565.00 fee, have a whole month of review for the Planning Commission, and would be given exactly the same information.

Ms. Albrecht questioned if this subdivision was a formal HOA or was it owned by the developer. Mr. Henwood said it is a formal HOA. Ms. Albrecht clarified that they failed to pay their taxes. Mr. Henwood said that was correct for these particular Blocks as they failed to pay taxes. He said the taxes for Block L and Block E were not paid. Mr. Henwood stated at some point the Recorder and the Prosecutor's office decided to pursue the tax foreclosure and that is how it got into private ownership.

Ms. Albrecht asked if the McCrackin's would have been told that was supposed to be green space behind them and that would influence their decision to purchase the parcel. Mr. Henwood said therein lies part of the problem. The Final Plat for Phase 2 was recorded and it was shown as a block for future development. Mr. Henwood said in the applicant's defense they purchased a piece of property that did say 'for future development' and he did not dispute that. He said the issue is in this case when the platting process was done, the correlation between the Preliminary Plan and the Final Plat was not caught. It was recorded with the notation 'for future development.' He said that should not have happened, but it did and now we are here because of that.

Mr. Cook asked if when the land went into foreclosure did it lose its status as a part of...inaudible... Mr. Henwood thought there might be some legal question there. He said when something goes into tax foreclosure the liens against it are lost. Encumbrances against the land such as deed restrictions, etc., those run with the land. He said taxes that are in arrears, in the event of a sheriff's sale, those are eliminated. Mr. Henwood stated that since it was recorded as a block for future development, that is the notation so that is the encumbrance. He said the key to this issue as a requirement of approval of a subdivision, and a Replat is essentially a plat that is being filed to change a plat, in order for that plat to be approvable; the Preliminary Plan designation for that property must match the plat that is being filed. Mr. Henwood stated that in this case the Preliminary Plan that says 'open space' was approved in 1999 and again in 2000. He said that this is being proposed as a subplot, a subplot cannot be converted without Planning Commission approval, and here we are.

Ms. Albrecht stated that is was pretty straightforward. Mr. Henwood said that in his mind it was absolutely straightforward. He said the hard part is the applicant is in a position where he purchased a piece of property with an expectation to be able to do something. Mr. Henwood said that unfortunately he is not in the position to be able to make a recommendation based on his empathy for the applicant. Mr. Cook said the remedy is elsewhere. Mr. Henwood said unfortunately that is true.

Mr. Brandon stated that the blocks were intended to be common open space for the HOA. Mr. Henwood said that Block E was specifically for open space and that is based on the configuration. He said Block L on the other hand was intended at some point to have a house

built on it when it was made to be large enough to do so. Mr. Brandon said when the subdivision was put in the original developer should at some point in time deed these common open parcels to the HOA. In some cases, they will deed these to the HOA and he has seen where the HOA does not even know that has occurred. He said he would be interested to see what the deeds actually look like to see if there is language in them and if they refer to the spaces as common open spaces for the subdivision. Mr. Henwood said the legal description would make specific reference to the Block, because it is in a platted subdivision it does not include the same meets and bounds description. He said it would just refer to Blocks E and L. Mr. Brandon said that even if the developer deeded these to the HOA, the HOA could chose not to pay the taxes thus solving it at a foreclosure, which has happened here. He said the County Auditor is aware of this potential problem and now they will value those parcels at zero, which means there are no taxes. Mr. Henwood said this still carries an assessed value of around \$25,000.

Mr. Cook moved to approve the staff's recommendation of Disapproval for the Meadows of Southpointe, Phase V, Replat. In addition, changing Block "K" to Block "L." Ms. Albrecht seconded the motion. Mr. Jeffers opposed. All other members voted AYE (for staff recommendation) and the motion carried.

B. Wadsworth Township Map Amendment, 131-2016 MA

Mr. Henwood presented the staff report to the Commission for the above captioned Map amendment rezoning 10.2907 acres or approximately half of a 20.58-acre property located at 10000 Rittman Road from I-1 Light Industrial to C-1 Local Commercial.

According to the official Wadsworth Township Zoning Map, the subject site is zoned I-1 Light Industrial district. According to the Wadsworth Township Zoning Resolution, the I-1 district is intended to "... provide for and accommodate light industrial uses in the fields of repair, storage, manufacturing, processing, wholesaling and distribution, free from the encroachment of residential, retail, and institutional uses" (§ 406-1).

Permitted uses include the following (§ 406-2):

- Warehouses
- Wholesale establishments
- Similar uses (as defined)
- Motor freight garage, truck or transfer terminal office, warehousing and storage
- Equipment storage and rental
- Storage garage and yards
- Building material sales
- Storage and sale of grain and livestock
- public self-storage facilities
- Fuel, food, and gas distribution, warehousing & storage providing storage is within an enclosed building or by a solid wall

Conditionally permitted uses include the following (§ 406-3):

- Government buildings and facilities
- Strip or open pit mining

There is no minimum lot size; however, the lot must be adequate for sanitary sewerage disposal facilities and water supply facilities, as approved by the Ohio Environmental Protection Agency (OEPA). Site plan review is required (§ 406-4).

Proposed Zoning: The C-1 Local Commercial district is established for the following purpose: [T]o provide for a variety of sales, service, and administrative establishments. These establishments shall serve the needs of the community and provide opportunities in designated areas for well-planned, attractive, safe commercial development. All such uses shall have a minimal adverse impact on surrounding residential areas, and shall be clean, quiet, and free of

hazardous or objectionable elements such as chemicals, noise, odor, dust, smoke, or glare and operate principally within enclosed structures.

Permitted uses include the following (§ 404-2):

- Service establishments such as personal services, miscellaneous business services and other comparable services intended for the local market.
- General retail and services such as drug and food stores; stationary, apparel and floral shops; garden supply and sporting goods stores; optical goods and optician services; antique, furniture and home furnishing stores, office supply stores; beverage markets and restaurants.
- General and professional offices including medical offices and clinics, veterinary offices and clinics, and law offices.
- Commercial recreation.
- Cultural, educational, religious or philanthropic institutions, day care facilities.
- Club, lodge, fraternal, charitable or social organizations.

Conditionally permitted uses include (§ 404-3):

- Government buildings and facilities.
- Tavern, bar, and nightclubs (with location limitations).

There is no minimum lot size; however, the lot must be adequate for sanitary sewerage disposal facilities and water supply facilities, as approved by the OEPA. Site plan review is required.

Comprehensive Plan: The Future Land Use Map contained in the 2008 update to the Wadsworth Township Comprehensive Plan recommends the subject site for residential use at a density of 0.5 dwelling units per acre (two-acre lots).

Discussion:

Frank Maimone, Wadsworth Township Zoning Commission, said as far as the comments for the I-1, he said those are true. He said this was being used as Agricultural and there has never been Industrial on that property. He said when the land was purchased to put the barn on it was an interesting situation. He said there was one thing he disagreed with though is that the future land use for the Comprehensive Plan. Mr. Maimone challenged Mr. Henwood to show him as his future land use plan showed ½ unit per acre and only for Residential. He said there is another Section for Commercial and Industrial.

Mr. Maimone disagreed with Mr. Henwood's assessment saying that the 'request is not consistent with the Wadsworth Township Comprehensive Plan, which recommends this subject site for residential use on 2 acre sites.' Mr. Maimone was not sure how Mr. Henwood drew residential use out of that. Mr. Henwood said that without having the document in front of him as part of the documents submitted, the short answer is that particular parcel on the Comprehensive Future Land Use Map shows a shading that indicates residential use at 2 acre lots. Mr. Maimone disagreed and said it does not. He said the future site is blue. Board President, Mr. Kolesar asked Mr. Maimone if that was the 2008 Comprehensive Plan. Mr. Maimone said yes. He added that it is blue for Industrial, not yellow for residential.

Mr. Henwood said let us sit down and compare notes. Mr. Maimone said normally he would say yes, but in this instance, he is saying no as this is not correct. He said part of the Comprehensive Plan, there was one objective, was the quality of life, to preserve the Wadsworth Township rural, small town character. He added that encouraging development and redevelopment of underutilized non-residential land were two other objectives. He felt the request was very consistent and it is

saying that if the Township has underutilized non-residential land, to consider it for commercial property.

Mr. Maimone said the other issue was regarding central sewer and water service. He felt there should be no problem with a well and septic on that property with it being a party barn. It will be a limited use facility. Mr. Maimone showed a picture of the barn. It would be 100-foot x 140-foot, which would be small for that property. This would be used for weddings, small family gatherings, family reunions, and special event gatherings, etc.

Mr. Maimone asked the Planning Commission to reconsider the recommendation only because it was in line with the Comprehensive Plan. He said the reason the applicant wants to rezone to Commercial is that they cannot do the things they want to do with Industrial zoning.

Ms. Albrecht questioned if the applicant has purchased it, but it still have the 'for sale' signs up so she was confused. Mr. Maimone said it was his impression that the applicant own the 20 acres and they want half of it rezoned. Ms. Albrecht said she spoke with Mr. Gerspacher about the property and he told her both pieces were available. Mr. Maimone said he would have to check into that with the realtor.

Ms. Jesionek clarified with Mr. Maimone that his text was correct and with Mr. Henwood that the map does not show it, so it sounds like the map is in conflict with the text. Mr. Henwood said it was possible that he misread and misinterpreted it, but at this point he is where he is and he has said what he has said. Mr. Kolesar said it makes it difficult for the Board. Mr. Henwood agreed.

Ms. Albrecht asked if this could be tabled. Mr. Henwood said it could not be tabled because of the ORC notice requirements for amendments, tabling is not an option.

Mr. Jeffers asked if the government made its decision yet on whether or not party barns related to the sale of wine or distribution of the wine, grown from the grapes on the property, be part of an agricultural use. Mr. Henwood did not think it got much farther than the percentage of the product that was sold on the site. He was not sure they have gone much farther than that. Mr. Jeffers felt if that argument came through and it was allowed, they could do this as an agricultural use. Mr. Henwood said that is potentially possible.

Mr. Brandon commented on if the property was sold or not. At this time, a cell phone started to ring so some of his comments were not audible. He said it was a way to get everything in line before they make the final purchase. Mr. Henwood said a purchase would be contingent on approval for planning and zoning. He said the WR Stewart Properties is still the owner of the entire piece and there is a different person named as an applicant.

Mr. Cook moved to approve the staff recommendation of Disapproval for the Wadsworth Township Map Amendment. Ms. Albrecht seconded the motion. Mr. Williams, Mr. Brandon, and Mr. Schulte voted NAY. All other members AYE (to approve staff recommendations) and the motion was carried.

VIII. PLANNING DIRECTOR'S REPORT

Mr. Henwood stated that he did not have anything to add this evening.

IX. PUBLIC PARTICIPATION

There was no Public Participation.

X. OTHER BUSINESS

There was no Other Business.

XI. ADJOURNMENT

Mr. Kolesar moved to adjourn the January 4, 2017 MCPC meeting at 7:39 p.m.

Mark Kolesar, President

Cheryl Heinly, Admin Asst.