



MEDINA COUNTY PLANNING COMMISSION
MINUTES OF MEETING
WEDNESDAY, JUNE 7, 2017, 6:30 P.M.
PROFESSIONAL BUILDING, LOWER LEVEL CONFERENCE ROOM

Attendees / Representing (from sign-in sheet):

Cherry Lynne Pokeet, LRC
Robert Abramovich, LRC
Tony Valore, Hillsong

MCPC Members and Alternates in Attendance:

MCPC Members:

Mark Kolesar
Val Jesionek
Sally Albrecht
Jeff Brandon

MCPC Alternates:

David Williams, (for Pat Geissman)
Ray Schulte, (for Colene Conley)
Chris Day, (for Paul Jeffers)

MCDPS Staff:

Cheryl Heinly, Admin Assistant
Rob Henwood, Director
Susan Hirach, Associate Planner

President Mark Kolesar called the meeting to order at 6:30 p.m. and began with the Pledge of Allegiance.

I. ROLL CALL

Mr. Kolesar, Ms. Jesionek, Mr. Brandon, Mr. Day, Ms. Albrecht, Mr. Williams, and Mr. Schulte were present at the time roll was called.

II. MINUTES

Mr. Kolesar asked if there were any questions or comments on the May 3, 2017 minutes. Mr. Kolesar had called Ms. Heinly earlier to correct his attendance for that meeting.

Ms. Albrecht moved to approve the May 7, 2017 minutes as corrected. Mr. Brandon seconded the motion. All voted AYE and the motion carried.

III. CORRESPONDENCE

There was no Correspondence.

IV. CONSENT CALENDAR

There were no items on the Consent Calendar.

V. OLD BUSINESS

There was no Old Business.

VI. NEW BUSINESS

******Mr. Brandon and Ms. Albrecht abstained from the upcoming LRC and Hillsong subdivisions, as they are trustees in Montville Township and exited the room, 6:33 p.m.

A. LRC Subdivision, 035-2017 FP, Final Plat, Montville Township

Mr. Henwood presented the staff report to the Commission regarding the above captioned subdivision located on south of Medina Road (SR 18) between Normandy Park Drive and the southbound Interstate 71 on-ramp.

Proposal: The applicant proposes the following:

- Three sublots; Sublots 1 through 3, 2.0100, 3.0091, and 2.2545 acres respectively
- One Block; Block A for Future Development contains 11.8659 acres
- A private access easement containing two private drives (A and B) accessing Normandy Park Drive and Medina Road (SR 18) via a right in and right-out access
- A water easement containing County water improvements
- Connection to Medina County central sewer

History: The Preliminary Plan was approved by the Medina County Planning Commission (MCPC) at the February 2017 regular meeting. The Concept Plan was held in December of 2016.

Zoning: The subject property is zoned H-C Highway Commercial. The Montville Township Zoning Resolution indicates that the purpose of the HC district is to, "... offer motorist oriented business uses and general retail services, including, but not limited to, automotive, food and lodging services, concentrated around major freeway interchanges within the Township." (Section (§) 430.1). The minimum lot size is two acres with a minimum 200 foot lot width at the building line, and maximum impervious surface of 75% (§ 430.4).

Comprehensive Plan: This proposal is consistent with the Montville Township 2016 Comprehensive Plan. The Future Land Use Plan indicates the subject property to be "highway commercial." The Comprehensive Plan further states that in that the Township should, "...proactively encourage economic development along the... SR 18 business corridor."

Discussion:

Ms. Trina Devanney, attorney, representing Montville Township, had a letter before the Board regarding the Declaration of Easements. Mr. Schulte questioned the conditions placed and the decision to issue any permits. Ms. Devanney said attorneys for both parties had a chance to put their heads together and might have a resolution to the situation. She said this might be a short-lived glitch and the paragraph supports the suggestions and recommendations. She said it does not alter anything.

Mr. Schulte said he was looking at the comment, "...not in compliance with the conditions placed upon the LRC..." He was wondering what conditions. Ms. Devanney said regarding Normandy Park Drive. Mr. Schulte asked if they were conditions that she could not divulge. Ms. Devanney believed it was those conditions. Mr. Henwood said that was correct. He said one of the conditions of approval, as he understands it from the ZC (Zoning Commission), is that improvements be made to Normandy Park Drive. Mr. Henwood thought that was a condition of the site plan approval. Ms. Devanney said that was correct. Mr. Henwood said the improvements to the road are an outstanding condition and Andy Conrad could speak to that in more detail.

Ms. Devanney stated the requirement was that the road was going to have to be in a satisfactory condition to the County Engineer and the Township Road Department. Mr. Schulte asked if that was the concrete condition. Ms. Devanney said that was correct. She said there is going to be a substantial increase in the type and the amount of traffic on that road. She said they want to make sure the road will be able to handle the increased traffic.

Mr. Schulte asked if Montville or the developer would be responsible for the improvement. Ms. Devanney said that was the glitch and the solution that they are working on.

Cherry Pokeet, Attorney for LRC, said that there has been an ongoing conversation for the last three months or so with the Township trustees regarding the financial responsibility of the road. She said the trustees have a desire to have the entire road replaced from SR 18 to where the access is going to be. She said that was a substantial financial commitment and that has been the discussion. Ms. Pokeet said they are working towards a resolution and will have one soon.

Bob Abramovich, Montville Investors, said with respect to one of the conditions, on page four-paragraph number four, letter B. He said this is the same condition that he objected to before the Board at the Preliminary Plan meeting. This reads, "Block A may only have direct access to Normandy Park Drive with approval of the Medina County Highway Engineer."

Mr. Abramovich said Block A included everything that fronts on I-71 along the south property line and just shy of 12 acres, (pointing to map). He said that under the current code they are required to have at least 200-feet of frontage and 2 acres. He was not sure what they were going to do with the 12 acres as of yet. Mr. Abramovich said they do not want to limit themselves or the property as far as access. He respectfully asked the Board to remove that requirement. He said at the appropriate time they would come in to convert from a Block to a Sublot, as they would be coming before the Township and this Planning Board. Mr. Henwood said comments should come from the County Engineer, (Andy Conrad).

Mr. Henwood said he could see the applicant's point that ideally they would prefer not to have the comment on. He said it is always harder to have something removed than to not have it to start with. He encouraged Board President Kolesar to get comments from County Engineer Mr. Conrad.

Mr. Schulte asked about the areas in blue and if they were wetlands and riparian areas. Mr. Abramovich said the light blue lines were streams and the aqua areas were wetlands that would remain in place after the initial phase. He said the other blue area was an above ground stormwater detention basin. Mr. Schulte asked if Montville had some type of riparian setbacks. Mr. Abramovich said yes.

Mr. Kolesar reiterated regarding Block A that history has shown there is contention with the neighbors behind them. He was concerned with what goes into the property and asked that they consider this for the future.

Cherry Poteet, attorney for LRC, wanted them to be aware, the reason they are concerned about this property is that it abuts two public roads. The Ohio Supreme Court has declared in a case within the last ten years regarding State Teachers Retirement System, that a city that wanted to restrict their access...inaudible... She said if you restrict access to a public road, land that abuts the public road that is a taking and you are required to pay for that. Ms. Poteet said restricting access has downgraded the value of the land. She stated when your land abuts a public road you have a right to access. She said that they are not litigious or difficult people but they have a constitutional right to access that road. Ms. Poteet said before the Board takes a motion to weigh that access and they should take that into consideration.

Mr. Kolesar asked Ms. Poteet if she had a case number. Ms. Poteet said she did not have a case number as she was in Columbus before coming to this meeting. She said she would make sure they had that number.

Mr. Henwood again encouraged the Board to ask Andy Conrad, Medina County Highway Engineer, what his thoughts would be, particularly regarding this statement.

Andy Conrad, Highway Engineer, stated that when the comment came out on the Preliminary Plan that they were restricting no access to Normandy Park. He said as the Board can see, the revised statement is, "access with Highway Engineer approval." Mr. Conrad said there are many reasons for this statement. He said there are complications with the existing condition of Normandy Park Drive. He said they do have complications of how that is going to be developed and where that point of access is going to be. Mr. Conrad there are a number of aqua blue areas and [blue] lines on the map [wetland areas]. He said that having access out onto Normandy Park Drive is going to be a juggling act to develop and he was not sure how they would. Mr. Conrad said how they would have access to Normandy Park Drive is a concern for him.

Mr. Conrad said what type of development goes in there and what type of traffic it generates is going to impact not only Normandy Park Drive but also the access to SR 18. He stated that they want the ability to be able to accommodate if there is going to be access there, how, and where it is going to be, which he thought was a reasonable request.

Mr. Schulte clarified that it was not a denial. Mr. Conrad no, it is not a denial, the statement says, 'with permission.' Mr. Schulte got from Ms. Poteet's statement that it was a denial. Mr. Conrad did not think that is what the statement says. Ms. Poteet said the concern was when they would like to develop that area; they would have to go to the County Engineer, come back to the Planning Commission, and make a proposal where they want to make access, how to access, it would all have to be approved. She felt the problem was they were asking them to put on their plat saying that they agree that there is no access without the County Engineer's approval.

Ms. Poteet said that Mr. Conrad is a very reasonable person but that was not to say he would always be the County Engineer and this would always be a recorded plat. She said the next person could come in and say that there is no access without our approval and we are not going to approve it, we do not think you should have it. She said they could not challenge it at that point because it would be on the plat. She said that they have no dispute that they will have to come back to them, the County Engineer, and agree where any access is going to be.

Ms. Poteet gave the court case number but it was inaudible.

Mr. Kolesar asked if the Planning Commission's decision was a recommendation only or was it a final decision. Mr. Henwood said this is a decision maker. Mr. Williams felt it was a reasonable request from the applicant. Mr. Kolesar was trying to figure out what the compromise would be to make both sides comfortable.

Mr. Henwood said that the condition that no access be granted to Block A is a condition of Preliminary Plan approval. He supposed that if that condition were removed from the Final Plan the Preliminary Plan condition would still apply. He was stating that as a question to the County Engineer. He asked if that still suited Mr. Conrad's purposes. Mr. Conrad answered that his concern would be that Block A was sold to a different entity and then they would develop it as something else. He said they would not come in under the same Preliminary Plan. Mr. Henwood said sure they would as ownership is not relevant. He said the concern would be the Preliminary Plan is valid for only two years. Mr. Conrad said that is correct. He said his concerns are his, this could be split numerous times; he does not know the ins and outs of the zoning, how many access points, etc. Mr. Conrad was looking at someone trying to maximize the property and what that could do for access. He said there is a possibility for a cross access easement to the proposed street for the future development into there, but that is not being proposed. He said there is not any cross access easement into Block A as far as he is aware at this time.

Mr. Kolesar asked about the stub that was coming off the backside in the middle. Mr. Conrad said that his understanding was that access point was to balance the site for dirt. Bob Abramovich said there was about five to eight acres that sits high and they would be borrowing dirt from another area to level. He said it will not be quite as high as SR 18 but it will be higher than it is now, raised up to probably five feet.

Mr. Abramovich went on to explain that there was five to eight acres that could be developed and could be accessed. He said as the Board could see all the streams and blues areas, wetlands, converge on the map, there is about a ten-foot drop where the stub is located. He said what they

are talking about is the stub fronting on Normandy Park Drive. Mr. Abramovich thought the property as a whole and their rights to sell it should not be diminished as a property owner because of a note on a plat that says you cannot have access to the road. Mr. Conrad said it does not say that. Mr. Abramovich said with his approval but he might not be there. He said they objected at the last meeting and they have rights to access the road. They will have to come before the Township, this Board again with their plans, as well as doing a traffic study to show they have the appropriate distances between the drives. Mr. Abramovich said they are talking about what might happen to the property and at this point they do not know and he felt restricting access without knowing was not fair.

Mr. Kolesar said hearing case law referenced he felt they needed an attorney from the Prosecutor's Office to address the applicant's challenge. Mr. Henwood said that could be arranged. Mr. Kolesar questioned how to structure the vote as this would be one of the conditions of approval. Mr. Henwood said one of the Planning Commission's options would be to remove the recommendation and approve.

Mr. Kolesar asked if there was anything in the County that is consistent to something similar to this case where...Mr. Henwood interjected saying one of the things he was going to ask Mr. Conrad was that often in subdivisions access to the public on a subdivision when an internal roadway system is provided, frontage like this is often restricted. He asked Mr. Conrad if this was different from any other subdivisions where access is restricted to sublots when an internal roadway is provided. Mr. Conrad clarified that often times a new subdivision street will come in and the rear of the lots touch the existing main county or township roads and those lots are always restricted as no access out or onto the existing street for a number of reasons. Mr. Conrad said the difference with this subdivision is that there is internal private streets.

Mr. Henwood said the issue before the Planning Commission is to restrict access to Block A. He stated that the applicant was objecting and was requesting that the note be removed. He said if the Board needs additional information before making that decision, arrangements could be made. Mr. Henwood said that the applicant is also capable if requesting that the Planning Commission table the decision until that further information would be considered. He added that the applicant would have to ask to table the project until the next meeting.

Mr. Henwood asked Mr. Abramovich if tabling was something he would consider. Mr. Abramovich asked when the next meeting was scheduled. Mr. Henwood said it was on July 5, 2017, but it was possible that a special meeting could be scheduled. Mr. Abramovich asked if it was tabled would the County ask that someone from the County Prosecutor's office to be at the meeting. Mr. Kolesar answered yes. Numerous people speaking...inaudible.

Mr. Henwood said they would request the chair of the Planning Commission be present, the County Engineer, the applicant, and their attorney, (this would be for a meeting prior to the special planning commission meeting). He said the applicant's attorney has suggested that if the Planning Commission makes the decision that could potentially be a taking. Mr. Henwood stated that was not a question staff had the Prosecutor's office evaluate. He thought plan for a meeting so they could sit down, talk, and see what potential legal implications there might be.

Mr. Abramovich said he was open to tabling the LRC Subdivision provided they could have a special meeting before the July 5, 2017 regular Planning Commission meeting. Mr. Henwood said his goal would be to come to a resolution before the next Planning Commission meeting. Mr. Abramovich would be open to tabling as long as they could meet before the 17th. Mr. Conrad said it would have to be before the 15th or after the 21st.

Mr. Kolesar said to him that there is a legal situation going on and none of the Board members could make that decision. He felt they would all be more comfortable with someone from the Prosecutor's office in attendance at the next meeting.

Mr. Abramovich asked if they could approve everything else subject to them working out the last item. Mr. Henwood answered that he felt they needed to get all their "ducks in a row" before they approve the project. Mr. Kolesar said or the applicant could roll the dice and see how the Planning Commission votes the way it stands. He said he is struggling with the applicant's attorney saying it would be a taking without them having any opinion from the Prosecutor's office. Mr. Abramovich asked again if they could vote on everything else except item 4B. Mr. Henwood said his recommendation would be to get this worked out and approve it as a whole at the July Planning Commission meeting.

Mr. Kolesar asked if they could have a special meeting between the group meeting and the July Planning Commission meeting as long as they get enough to make a quorum for just this item. Mr. Henwood said yes. Mr. Abramovich said he would be in favor of that.

At this time, Mr. Abramovich requested to table the LRC Subdivision.

Mr. Schulte moved to approve the applicant's request to table the LRC Subdivision, Preliminary Plan, and having a special MCPC meeting before the July 5, 2017 meeting. Ms. Jesionek seconded the motion. All voted AYE and the motion carried.

B. Hillsong Subdivision, 038-2017 PP, Preliminary Plan, Montville Township.

Mr. Hirsch presented the staff report to the Commission regarding the above captioned subdivision located south of Medina Road (SR18) and O'Hara Drive, west of Windfall Road and east of Montville Drive.

Proposal:

The applicant proposes the following:

- 176 units
- Central water and sanitary sewer
- Private streets

The street connections listed below are not practical for the following reasons:

- A stub to the east is not practical as the land is with single-family homes that front on Windfall Road.
- The area to the south was developed as the Windfall Reserve Subdivision; therefore, a street stub is not appropriate.
- A through street to the north is not possible due to the topography.

Background: The original Preliminary Plan for the Woodford Commons was approved in November of 2001. The proposal included 237 dwelling units. The Final Plat for Phase 1 of the Woodford Commons Subdivision was approved by the Planning Commission in May of 2003. This created Blocks A, B, and C. Replats in Phase 1 creating the eight sublots and open space were approved in 2003.

A Preliminary Plan for the Aspen Ridge Subdivision (also known as (aka) Woodford Commons) was submitted in March of 2008, which proposed 181 units. The Preliminary Plan was tabled by the applicant at the March 2008 Medina County Planning Commission (MCPC) meeting.

Property fronting on Montville Drive and O'Hara Avenue, not previously part of the subdivision, was rezoned from R-4 to R-3 in 2009.

A Concept Plan for Aspen Ridge Subdivision was reviewed in October of 2011 by Department of Planning Services (DPS) staff. This proposal was for 40 units in Phase 1 and 20-25 units in Phase 2. A Preliminary Plan and Variance Request for Woodford Commons Subdivision, Phase 2 was approved by the MCPC in December of 2011. This Plan was for 40 units in addition to the eight existing units in Phase 1. Forty-eight units on a permanent cul-de-sac necessitated the request for a variance. The 2011 Preliminary Plan expired in December of 2013.

The Concept Plan meeting for the proposed Hillsong subdivision was held in April of 2017. Limited ingress and egress for the proposed 176 units was an issue of concern.

Site Conditions: Most of the site is wooded. The southwest portion of the site consists of eight detached single-family cluster homes and the common open space around them, Woodford Commons, Phase 1. A stream network traverses the northern portion of the site from east to west. There are significant slopes in the northern portion of the site. There are existing wetlands in the northern and southeastern portions of the site. Five oil/gas wells are indicated in the east central portion of the site.

Zoning: The subject property is zoned R-3 Residential and the applicant is requesting that the site be developed under the Controlled Density regulations. The Montville Township Zoning Resolution Section (§) 414.2 B indicates that, "Controlled Density PRDs shall be permitted in the R-1, R-2, and R-3 Districts, the objective of which is to provide alternative housing types and the preservation of open space through the flexible arrangement of buildings in a unified development."

Comprehensive Plan: The proposed subdivision is consistent with the 2016 Montville Township Comprehensive Plan (Plan) recommendation of high-density residential use for the subject property. High density residential is defined as sublots averaging less than 22,000 square feet or a density of greater than two units per acre. Additionally, developing this site under the Controlled Density regulations will further the goals and objectives of the Plan through "...promoting development policies that emphasize careful, creative approaches to residential development" and "...preservation of open spaces and scenic natural resources in the Township."

Discussion:

Mr. Kolesar asked about the variances. Ms. Hirsch said that with the variances the applicant meets the regulations.

Tony Valore, applicant, said that this is a challenging property. He has all the comments from the agencies, knows he has to change some street names, and has to do a traffic impact study.

Mr. Valore had a question from page three, the Highway Engineer's comment; storm sewer assessments will be required, he was not sure what that meant. Andy Conrad answered that anytime there is a public street that is put in by a developer that has storm sewers that are part of

the drainage for the street, there is an assessment that whomever owns the property abutting to it pays an assessment, which is based on a percentage of the construction costs.

Mr. Schulte moved to approve the staff recommendations of Approval with Modifications for the Hillsong Preliminary Plan. Mr. Williams seconded the motion. All voted AYE (to approve staff recommendations) and the motion carried.

******Mr. Brandon and Ms. Albrecht returned to the Planning Commission meeting, 7:21 p.m.

C. Westfield Township Text Amendment, 040-2017 TA.

Ms. Hirsch presented the staff report to the Commission regarding the above captioned text amendment regarding Delete “small wind energy system” as a permitted use and “small wind energy system in excess of 35 feet” as a conditional use in Article III, District Regulations, as follows:

- § 303B1.h.
- § 303B2.n.
- § 303B2.o.
- § 305 B1.n.
- § 305B2.j.
- § 306B1.f.
- § 3062.k.
- § 307B1.h.
- §307B2.e.

Also delete “small wind energy systems” under Specific Conditions in Article VI, Conditional Zoning Certificates, § 606A.34

Discussion:

There was no discussion.

Ms. Jesionek moved to approve the staff recommendations of Approval with Modifications for the Westfield Township Text Amendment. Ms. Albrecht seconded the motion. All voted AYE (to approve staff recommendations) and the motion carried.

D. Wadsworth Township Map Amendment, 039-2017 MA.

Mr. Henwood presented the staff report to the Commission regarding the above captioned map amendment regarding the Comprehensive Map Amendment.

The Wadsworth Township Zoning Commission wishes to adopt an updated Zoning Map, which reflects recent changes including two annexations of land from Wadsworth Township to the City of Wadsworth and a zoning district boundary change. This amended map is required to be reviewed as any other Zoning District map change per Ohio Revised Code Section 519.12.

The following changes are reflected on the proposed Zoning Map:

1. Wadsworth City Ordinance 15-088, 1/08/2016, Municipal Annexation of 0.1962 acres – Park Centre Drive
2. Wadsworth Township Resolution 15-045, 1/14/2016, Rezone Parcel Id. 38-17A-05-003 on Ridge Rd from R-1 to C-1.
3. Wadsworth City Ordinance 16-026, 4/15/2016, Type II Annexation of 5.36 acres – Akron Road.

Discussion:

Mr. Kolesar questioned the wedding barn area. He asked if that area stayed the same. Mr. Henwood said the Zoning Commission went ahead and made the change in spite of the Planning Commission’s recommendation.

Mr. Williams moved to approve the staff recommendations of Approval for the Wadsworth Township Map Amendment. Mr. Day seconded the motion. All voted AYE (to approve staff recommendations) and the motion carried.

VII. PLANNING DIRECTOR'S REPORT

There were no items on the Planning Director's Report.

VIII. PUBLIC PARTICIPATION

There was no Public Participation.

IX. OTHER BUSINESS

There were no items on Other Business.

X. ADJOURNMENT

Mr. Kolesar moved to adjourn the June 7, 2017 MCPC meeting at 7:31 p.m.

Mark Kolesar, President

Cheryl Heinly, Admin Asst.