

Meeting Minutes
Wood County Planning Commission
April 2, 2019
5:30 pm

The Wood County Planning Commission met in regular session on Tuesday, April 2, 2019 at the County Office Building in Bowling Green, Ohio. Planning Commission staff members in attendance were David Steiner and Deminique Heiks. Planning Commission members in attendance were Tony Allion, Steve Arnold, Ted Bowlus, Craig LaHote, John Musteric, Jeffrey Schaller, John Schuerman, and Erik Wineland. Five guests were in attendance.

Chairman John Musteric called the meeting to order.

Old Business

SUBDIVISION – MIDDLETON TOWNSHIP

Feller, Finch and Associates, on behalf of McCarthy Builders, had submitted a request to extend preliminary plat approval for the Village at Riverbend and River Bend Lakes Plats 4-6. The requests were heard at the March 5, 2019 meeting. River Bend Lakes Plats 4-6 was granted a preliminary plat approval extension. The Village at Riverbend request was tabled due to concerns from Commission members that the originally approved preliminary plat had changed.

Mr. Steiner provided an overview of the request and stated he distributed a map he received from the applicant. Mr. Steiner stated the applicant, Greg Feller, was in attendance.

Mr. Musteric asked Mr. Feller if he had received a signed copy of the map. Mr. Steiner stated that the map Mr. Feller sent him was probably just the one he had on file. Mr. Feller stated he did not recall receiving a signed copy. Mr. Feller stated the copy he most recently submitted was the same one he used for previous extensions. Mr. Steiner stated he had signed off on a map.

Mr. Musteric asked Mr. Steiner if he saw any changes. Mr. Steiner stated no. Mr. Musteric stated he thought that the rerouting of a ditch had changed.

Mr. Musteric stated the applicant was preparing to begin Plat 5. Mr. Musteric stated the connection to Waterville Drive would be made on that plat. Mr. Feller stated it was part of the plans. Mr. Steiner stated that the connection had been one of the Planning Commission's big concerns.

Mr. Wineland stated the Commission members previously had a discussion with the applicant about an access road that needed to be completed to allow for emergency services. Mr. Wineland stated representations had been made that the road would be built by the end of the year last year. Mr. Wineland stated the timeframe might have changed a little at the end of the year. Mr. Wineland asked if the access road was completed.

Mr. Feller asked Mr. Wineland if he was referring to the access road to Waterville Drive. Multiple members stated yes. Mr. Feller stated no, the access road was not completed. Mr. Feller stated plans were submitted last August for approval so they could construct it. Mr. Feller stated they were still waiting for plan approval and that they were ready to build it. Mr. Musteric stated the plans had been approved by his office.

Mr. Wineland asked Mr. Feller how long it would take to complete the road. Mr. Feller stated probably three months. Mr. Wineland stated the road should be done by July 1st. Mr. Feller stated yes, if the construction started immediately.

Mr. Musteric asked Mr. Feller how close he was to completing the water and the sanitary sewer. Mr. Feller asked Mr. Musteric if he was referring to Plat 5. Mr. Musteric stated yes. Mr. Feller stated the water and sanitary sewer were completed and approved.

Mr. Musteric stated the easement of the storm sewer tying into the lake had to be recorded.

Mr. Bowlus made a motion to approve the Village at Riverbend request. Mr. Schaller seconded the motion.

Mr. Musteric called for a vote.

Mr. Allion - Yes, Mr. Arnold - Yes, Mr. Bowlus - Yes, Mr. Brossia - Absent, Ms. Herringshaw - Absent, Mr. LaHote - Yes, Mr. Musteric - Yes, Ms. Ruland - Absent, Mr. Schaller – Yes, Mr. Schuerman - Yes, Mr. Wineland - Yes.

New Business

Mr. Musteric stated the March 2019 Planning Commission meeting minutes needed to be edited. Mr. Musteric stated two words, zoning inspector, needed to be inserted after Henry Township in the fifth sentence on the second page.

Mr. Arnold made a motion to approve the corrected March 2019 Planning Commission meeting minutes. Mr. Bowlus seconded the motion.

Mr. Musteric called for a vote.

Mr. Allion - Yes, Mr. Arnold - Yes, Mr. Bowlus - Yes, Mr. Brossia - Absent, Ms. Herringshaw - Absent, Mr. LaHote - Abstain, Mr. Musteric - Yes, Ms. Ruland - Absent, Mr. Schaller – Yes, Mr. Schuerman - Yes, Mr. Wineland - Yes.

ZONING – PLAIN TOWNSHIP

A Jody and James Williams had submitted an application to rezone two parcels of land totaling approximately 3.56 acres from an R-2 Residential zoning classification to a Commercial zoning classification.

Mr. Steiner provided an overview of the application. Mr. Steiner stated one of the subject parcels was occupied by a well drilling business. That parcel had been identified in the rezoning application as Parcel B. Mr. Steiner stated the applicants had indicated that they planned to

establish a cold storage facility on the other subject parcel, which had been identified as Parcel A.

Mr. Steiner asked the applicants for clarification of the locations of the other parcels they owned near the subject parcels and whether they had intended to include those parcels in the rezoning request. The applicants, Jody and James Williams, pointed out the locations of the other parcels they owned and stated they had not intended to rezone those additional parcels.

Mr. Steiner stated the crux of the matter was that the subject area's lots had been put in place long before zoning. Mr. Steiner stated the well drilling business was a nonconforming use.

Mr. Steiner stated his main concern was that the only road access some of the surrounding parcels had was a drive on Parcel B. Mr. Steiner was particularly concerned about the road access for the parcels that had dwellings. Mr. Steiner stated it was necessary to determine, to the satisfaction of the Commission members, how the road access issue would be addressed. Mr. Steiner stated he was unaware of any easements.

Mr. Steiner stated he recommended approval of the request. Mr. Steiner stated the road access issue had to be addressed before making a recommendation to the township.

Mr. Wineland asked for a count of the parcels that were to the west of Parcel B. Mr. Steiner stated four parcels. Mr. Steiner stated the applicants owned two of those parcels. Mr. Wineland asked if the two parcels with different owners were residential. Mr. Steiner stated he believed the parcels were being used for residential. Mr. Williams stated an individual periodically lived in a camper on the parcels. Mr. Wineland asked about the road access for those parcels. Mr. Williams stated the individual had his own access, so he did not use Parcel B's drive. Mrs. Williams pointed out the drive the individual used, which led to Sand Ridge Road. Mr. Musteric stated that was limited access right-of-way.

Mr. Wineland asked for confirmation that a parcel east of the subject parcels had a commercial zoning classification. Mr. Steiner stated yes. Mr. Williams pointed out the location of the parcel zoned commercial. Mr. Wineland asked if there were residential properties between the subject parcels and the parcel to the east zoned commercial. Mr. Williams stated there were three homes between the parcels. Mr. Wineland asked about the road access for those homes. Mr. Williams stated two of the homes used Parcel B. Mr. Wineland asked if there was an easement. Mr. Williams stated no.

Mr. Musteric asked the applicants to tell him who provided the snowplowing services for the drive on Parcel B. Mr. Williams stated he did the snowplowing. Mr. Williams stated he serviced the drive. Mr. Musteric asked Mr. Williams if he charged the other owners for those services. Mr. Williams stated he did not.

Mr. Musteric stated he was concerned about what would happen in the future. Mr. Musteric stated he did not think it would be a big deal if the applicants platted the drive and made it a private road. Mr. Musteric stated he believed the drive needed to be platted so the residents would have access to it. Mr. Musteric stated the applicants had to pay taxes on the drive. Mr. Steiner stated if the applicants platted the drive, they would not pay taxes on it. Mr. Musteric

stated because it would be a private road, he would not make the applicants put a cul-de-sac at the end.

Mr. Steiner stated even if the applicants platted the drive, they would still need to get the parcel rezoned for what they were trying to do.

Mr. Musteric stated the applicants had access to Mitchell Road off of Parcel A. Mr. Musteric stated the applicants would have many dealings with his office, as part of the permit process, for building the cold storage. Mr. Musteric stated his office was concerned with drainage, ingress, and egress.

Mr. Williams asked if the main concern was the access issue. Mr. Musteric stated yes, if there was not an easement. Mr. Williams stated he did not believe there was an easement. Mr. Williams asked how he should address the issue.

Mr. Musteric stated the applicants had to determine if there was an easement. Mr. Steiner stated he did some research and did not find an easement. Mr. Musteric stated each of the parcels would need to be checked.

Mr. Musteric asked about the possibility of an easement by prescription. Mr. Wineland stated there was a good argument for it.

Mr. Wineland stated he had concerns about the impact of rezoning for the parcels with homes. Mr. Wineland asked if approving the request would result in devaluing those parcels. Mr. Wineland stated he would be hesitant to approve the request without addressing the access issue.

Mr. Williams asked Mr. Wineland if his concerns only had to do with the access issue. Mr. Wineland discussed the potential difficulties the homeowners might experience, particularly when trying to sell their homes, without an easement for the road access.

Mr. Williams stated the road access issue would stand regardless of the rezoning. Mr. Wineland stated if Parcel B was rezoned to commercial and the applicants sold their property to another business, the new owners might cease to provide road access. Mr. Williams stated this could occur then, even if the parcel's zoning did not change.

Mr. Arnold asked Mr. Musteric if he had any issues with rezoning Parcel A. Mr. Musteric stated no, because the parcel already had road access.

Mr. Wineland asked the applicants what they planned to change on Parcel B. Mr. Williams stated they did not plan to change anything. The applicants wanted to bring Parcel B into compliance. Mr. Williams stated the township instructed him to include Parcel B in the rezoning application.

Mr. Wineland asked the applicants if they would be okay with the township only rezoning Parcel A. Mr. Williams stated he would not have any issues with only rezoning Parcel A.

Mr. Wineland made a motion to recommend that Plain Township approve the rezoning request for Parcel A, but deny the request for Parcel B. Mr. Arnold seconded the motion.

Mr. Musteric called for a vote.

Mr. Allion - Yes, Mr. Arnold - Yes, Mr. Bowlus - Yes, Mr. Brossia - Absent, Ms. Herringshaw - Absent, Mr. LaHote - Yes, Mr. Musteric - Yes, Ms. Ruland - Absent, Mr. Schaller – Yes, Mr. Schuerman - Yes, Mr. Wineland - Yes.

ZONING – LAKE TOWNSHIP

A Patrick and Susan Gallagher had submitted an application to rezone an 11.154 acre portion of a 50.5 acre parcel of land from an A-1 Agricultural zoning classification to a B-2 General Business zoning classification.

Ms. Heiks provided an overview of the application. Ms. Heiks stated the applicants intended to develop a storage lot for impoundments and build another building on the parcel. Ms. Heiks stated the applicants were operating a towing business on the property, which was a nonconforming use.

Mr. Wineland asked for clarification on the area the applicants requested to rezone. Ms. Heiks pointed out the area as being west of a line included in a map in the presentation and east of Pemberville Road. Mr. Wineland asked if the applicants intended to maintain A-1 zoning for the rest of the parcel. Ms. Heiks stated yes.

Ms. Susan Gallagher stated they intended to use the planned building as an office building.

Mr. Wineland stated he had concerns about the numerous passing vehicles that would see the proposed impound lot. Mr. Patrick Gallagher stated he had a 15 foot mound stretching around his business that acted as a buffer. The applicants stated they knew they would need to install a septic system for the office.

Mr. Musteric asked Mr. Steiner if the township had buffer requirements. Mr. Steiner stated the buffer requirements would not come into play because the applicants owned the surrounding parcels. The applicants pointed out the surrounding parcels they owned.

Mr. Wineland asked if the proposed impound lot could be converted into a junkyard. The applicants stated they did not intend to develop a junkyard. Mr. Steiner stated there were a number of requirements and rules for developing a junkyard. Mr. Wineland asked if a junkyard would be a permitted use for the B-2 zoning classification. Mr. Steiner stated he did not believe it was a permitted use for that zoning classification. Mr. Steiner stated a junkyard was probably a conditional use.

Mr. Wineland asked Mr. Steiner for clarification about the issues related to spot zoning. Mr. Steiner stated it was spot zoning. Mr. Steiner stated nothing near the subject parcel was zoned B-2. Mr. Steiner stated the business was a nonconforming use. Mr. Steiner stated if the parcel was rezoned to bring it into compliance, then it would be spot zoning.

Mr. Wineland stated he assumed spot zoning was not permitted unless there was an exception or other factors involved. Mr. Steiner stated no. Mr. Steiner stated he always found the rules of spot zoning to be muddly. Mr. Steiner stated he had never received a straight answer about this matter from legal counsel. Mr. Steiner stated he knew the size of the parcel mattered. Mr. Steiner stated he had been told spot zoning was acceptable when it involved 20 or more acres.

Mr. Musteric asked the applicants how long the building on the parcel had existed. The applicants stated there were two buildings on the property. Ms. Gallagher stated the oldest building had existed since 2003 and the latest since about 2014 or 2015.

After discovering the buildings were relatively new, multiple members wondered why the township allowed that to happen. The applicants stated they received permits from the township for both of the buildings.

Mr. Allion asked the applicants if they were the first owners to use the parcel as a business. Ms. Gallagher stated yes and that they moved their business to the property in 2006.

Mr. Musteric asked if the business was started on the property after the turnpike used the property as a storage lot. Ms. Gallagher stated the turnpike used the parcel as a borrow pit.

Mr. Allion stated maybe the Commission should make a recommendation to rezone the entire parcel to avoid concerns about spot zoning. Mr. Allion stated rezoning the entire parcel would make the acreage large enough that it would not be a spot zone. Mr. Steiner stated doing so would not change the way the parcel was taxed.

Mr. Schaller asked if spot zoning was specifically defined. Mr. Steiner stated he had always been told the 20 acres rule when seeking clarification from legal counsel. Mr. Schaller stated he had concerns about recommending rezoning the entire parcel just for the sake of avoiding spot zoning.

Mr. Allion asked if the reason the applicants needed to rezone was because their plans for expansion exceeded the limits for a nonconforming use. Mr. Steiner stated he did not know if the business truly was a nonconforming use because the township approved it long after they gave final approval to their most recent zoning resolution. Mr. Steiner stated yes, the proposed changes required rezoning.

Mr. Wineland asked if rezoning the entire parcel would prevent the applicants from farming the property. Mr. Steiner stated no.

Mr. Wineland asked if rezoning the entire parcel would have adverse impacts on the applicants. Ms. Gallagher stated no, but asked if the rezoning would involve the other parcels they owned.

Mr. Wineland stated the Commission members' decisions had to be consistent. Mr. LaHote asked if the rezoning would impact the wooded part of the property. Mr. Steiner stated no.

Mr. Musteric asked if the Commission members were allowed to modify the request to recommend rezoning the entire parcel. Mr. Steiner stated the Commission members were allowed to recommend rezoning the entire parcel.

Mr. Schuerman made a motion to recommend that Lake Township approve the request to rezone the property to a B-2 General Business zoning classification, but modify the approval to include all 50.5 acres of the parcel. Mr. Allion seconded the motion.

Mr. LaHote asked the applicants if rezoning the entire parcel would negatively affect them. Ms. Gallagher stated no.

Mr. Musteric called for a vote.

Mr. Allion - Yes, Mr. Arnold - Yes, Mr. Bowlus - Yes, Mr. Brossia - Absent, Ms. Herringshaw - Absent, Mr. LaHote - Yes, Mr. Musteric - Yes, Ms. Ruland - Absent, Mr. Schaller – Yes, Mr. Schuerman - Yes, Mr. Wineland - Yes.

Mr. Musteric told the applicants they had to submit a site plan to his office because they were in the MS4 for storm water.

PUBLIC FORUM

CHAIRMAN'S TIME/COMMISSION MEMBERS' TIME

Mr. Allion asked if there was a need to come up with rules for spot zoning. Mr. Steiner stated he agreed with Mr. Wineland about the need for consistency. Mr. Allion stated coming up with rules would assist with consistency. Mr. Steiner agreed. Mr. Steiner stated he could put something together on this matter.

Mr. Musteric asked Mr. Steiner why the applicants were not required to provide more information in their applications. Mr. Musteric stated the Commission should come up with a checklist. Mr. Steiner stated he did not believe the Commission could develop a one-size-fits-all checklist.

Mr. Schaller asked Mr. Steiner if he had updated the Commission members on the final decisions made by the townships. Mr. Steiner stated he had not previously provided updates. Mr. Steiner stated the townships had not always provided updates to the Planning Commission staff. Mr. Steiner stated the townships were required to file their decisions with the Planning Commission and the recorder's office. Mr. Steiner stated he would provide updates to the Commission members if the townships provided updates to him.

DIRECTOR'S TIME

Staff Activity Report

Mr. Steiner reviewed the staff activities performed in March 2019.

Mr. LaHote asked if any companies had not been in compliance at the Tax Incentive Review Council meeting. Mr. Steiner stated yes, but the issues had been chronic. Mr. Steiner stated the council members recommended rescinding those agreements.

Mr. Wineland made a motion to adjourn the April 2, 2019 Planning Commission meeting. Mr. LaHote seconded the motion. Commission members responded in full support. The meeting adjourned.