

Plan Commission Meeting Minutes May 17, 2022

Call to Order and Roll Call

Members Present: Devin Stettler, Tom Strayer, Brianna Schneckenberger, Scott Shipley, Chad Gooding, Steve Duhamell

Members Absent: Jennifer Herrmann

Agenda Considerations

Mr. Crum asked to move PC-22-007 to the end of the agenda.

Approval of Minutes

Mr. Strayer noted that the minutes do not indicate who moved and seconded for the minutes of the April meeting.

Ms. Schneckenberger made a motion to approve the April 19, 2022, meeting minutes on the condition that they be revised to show who moved and seconded on the minutes of the meeting. Mr. Gooding seconded. The motion passed 6/0/1. Mr. Duhamell abstained.

Old Business

PC-22-006 Premier Land Company's Request to Rezone to Rivendell PUD

Mr. Crum introduced the project and Richard Henderson, Premier Land Company, and Briane House, Pritzke and Davis, presented on behalf of the petitioner. Mr. House and Mr. Henderson highlighted property features and amenities, explained the annexation request with the proposed zoning, and described the actions taken to work with the requirements for the legal drain.

Mr. Crum noted that Staff does not have any outstanding issues with the development and is supportive of the petition.

Mr. Strayer affirmed that the developers worked with the County Surveyor and the Town Council on the design of the entry along the legal drain.

Ms. Schneckenberger confirmed which lots were considered impact lots that would have additional architectural requirements.

Floor open to public

John Kelly asked that one of the roads to be named after his family. He noted that his property drains to the ditch and asked that drainage on his property be addressed.

Mark Mills asked what the value of homes would be. He also noted that he has a small business at the southwest corner of the development. He wants assurance that his well will not be affected. He stated that he has two labs that he uses to monitor water quality and if the water is affected, he wants

assurance that any issues that may arise will be fixed and he wants to know how they will be fixed. Mr. Mills also noted that a small portion of that southwest area floods and that care should be taken with the type of trees that are planted. He also stated that the proposed location of the sanitary sewer will prohibit him from hooking up to it, something that was talked about in meetings with the developer. Finally, he expressed concern that so many ponds in so close an area seems dangerous.

Brett Kelly stated that his property is on the south side of the development and asked what the distance from the back of the houses to the property line would be.

Floor closed to public hearing

Mr. Henderson provided the following responses:

- 1) To Mr. Kelly's concern about the field tile, Mr. Henderson stated that the language in the contract ensured the drainage and field tile will be addressed.
- 2) There is a minimum 20' common area between the property line and the lot lines, and then, on average, another 50' to the houses. There will also be trees in the common area. Mr. Henderson stated that he wanted to preserve the tree line along the south property line.
- 3) The home prices will be between \$400,000 - \$500,000 depending on the lot size.
- 4) Mr. Henderson stated that he will work with Mr. Mills to adjust plantings to create screening.
- 5) Mr. Henderson is working with Mr. Witsman to adjust the location of the sanitary lines with plans to extend the sewer to Mr. Mills' property. It will be finalized further in the planning process.
- 6) Mr. Henderson noted that there will be storm sewer collection points around the site.
- 7) Mr. Henderson noted that the ponds are required but do have safety ledges.

Mr. Stettler asked Mr. Henderson to address Mr. Mills' concerns about the water quality of his well. Mr. Henderson responded that the surrounding field is currently an agriculture field so pesticides will be different and that the residents of the development will not be drawing from his aquifer. (Per Mr. Mills' request, a transcript of Mr. Henderson's response here and discussion later in the meeting is attached as Appendix 1).

Mr. Witsman noted that they are still in the primary plat stage, so some of the details will be resolved at the secondary plat stage. He also stated that the sewer will be extended so adjacent properties can connect, but that service will not be provided until those properties are annexed into the Town.

Mr. Crum noted that the PUD is consistent with, if not exceeding, other developments in area and that the entry monumentation is a step up from what is normally seen.

Mr. Mills objected to comments Mr. Henderson made and asked that the floor be reopened to the public.

Floor reopened

Mr. Mills stated that he has data from two labs showing what is and is not in his water and that he would be happy to submit that data to create a baseline. He noted that Mr. Henderson has stated that this development will not effect his property, but does not have data to show that it won't. Mr. Mills asked for a method to protect his property with a cure if it is effected. Mr. Morelock stated that this is

not a Plan Commission issue and that the Plan Commission cannot force one property owner to compensate if an issue arises. Mr. Morelock stated that is an issue that needs to go before the Courts. (The partial transcript of this portion of the meeting is in Appendix 1, per Mr. Mills' request.)

Floor closed

Mr. Shipley made a motion to send a favorable recommendation to the Town Council. Mr. Duhamell seconded the motion. The motion passed 6/0.

New Business

PC-22-008 Premier Land Company's Request to Rezone to Enclave at Deer Crossing

Mr. Crum gave a brief overview of the property, noting that it is an in-fill project and that the cell tower will remain on the property.

Richard Henderson spoke on behalf of the petitioner. He presented the concept plan, showing 18 75' wide lots and 4 lots that are 140-150' lots. Those 4 lots will be serviced from private drive off of Carroll road. He stated that Pyatt Builders will build on the 18 lots and the larger lots will potentially be built by custom builders. He stated that he has meet with Deer Crossing homeowners and while he hasn't been able to address all of their concerns, he has added evergreen trees to supplement the north property line. He also stated that the PUD will be modified based on requests from the Architectural Review Committee.

Ms. Schneckenberger and Mr. Shipley asked questions about house placement and access on the "estate" lots adjacent to the cul de sac.

Mr. Stettler asked about the cell tower. Mr. Crum explained that the cell company asked for a 75x75 easement with driveway access.

Floor opened to public

Joseph Kucharski expressed concern with the cell tower and the equipment needed to maintain the cell tower that would need to be brought through Deer Crossing. He also was concerned that the residents on the smaller lots would not have access to the green space that was proposed near the pond, stating that it was inconsistent with Town Standards. Finally, he was concerned about construction traffic, noting that Deer Crossing streets are narrow.

Jerry Klopp asked that the name be changed so that it would not be confused with Deer Crossing. He also suggested that instead of having a private road, Buckstone Dr be extended and get rid of the larger lots and had a trail.

Kurt Gassmann was opposed to adding extra traffic for the 18 lots because Deer Crossing roads are narrow and already packed.

Amy Spay asked how snow removal will be handled and stated that it isn't fair that only the 4 estate lots will have access to the green space.

Burt Pettygrove noted that a previous idea for 10 acre was to turn it in to a nature lot and is concerned that the trees will be taken down. Mr. Henderson agreed to plant new trees and to talk to Staff to augment the easement for landscaping buffer.

Floor closed

Mr. Henderson noted that the pond was originally built as part of Deer Crossing to meet the detention needs. The location of that pond created a situation that made it so the stub street cannot be extended to Carroll Rd. Mr. Henderson said that he will work with the cell company to ensure there is parking to service the cell site. Mr. Henderson stated that he is not willing to put in a path.

Mr. Strayer and Mr. Witsman discussed the requirements for street separation.

Mr. Witsman stated that the pond is the a hindrance to the stub road connection to Carroll Rd.

Members and Mr. Henderson discussed the issue of the maintenance access for the cell tower. Mr. Henderson said that he would work with the cell tower company and have information available by the Town Council meeting.

Mr. Stettler expressed concern that not having the path is inconsistent with Town Standards. Members and Mr. Henderson discussed the challenges and examined the counter proposals presented by Deer Crossing residents.

Mr. Strayer and Mr. Henderson discussed snow removal, with Mr. Henderson saying that it could be placed at the top of the cul de sac.

Mr. Gooding asked if these homes could join the Deer Crossing HOA.

Mr. Morelock stated that it would require an agreement, but the Plan Commission can't require it.

Mr. Strayer stated that it's a good in-fill project if the tower maintenance issues can be worked out.

Mr. Duhamell stated he doesn't like the exclusivity of the 4 estate lots,

Staff and Commission members expressed hesitancy over cell tower issues.

Ms. Schneckenberger made a motion to continue the item to the next meeting. Mr. Strayer seconded the motion. The motion passed 4/2. Mr. Shipley and Mr. Duhamell voted Nay. Mr. Stettler, Mr. Strayer, Mr. Gooding, and Ms. Schneckenberger voted Aye.

Mr. Crum clarified that there will not be additional notice for the next meeting.

Pulte Homes Request for Approval of the Jacobi Farms Development Plan and Secondary Plat, Sec. 1

Mr. Crum noted that the Petitioner had requested a continuance to address Staff concerns and that they are not at the meeting.

Mr. Duhamell made a motion to continue to the next meeting. Ms. Schneckenberger seconded the motion. The motion passed 6/0.

Platinum Property Request for Approval of the Development Plan and Secondary Plat of Colonnade Sec. 2

Tim Walter appeared on behalf of the petitioner. He addressed all Staff comments and committed to adding trail access for future land developments.

Mr. Crum stated that Staff recommends approval with condition on the petitioner add details on the playground, path easement, and fence restriction notices for lots.

Mr. Duhamel made a motion to approve with the condition that the Developer address Staff concerns. Ms. Schneckenberger seconded the motion. The motion passed 6/0.

Platinum Property Request for Approval of the Development Plan and Secondary Plat of Colonnade Sec. 3A

Mr. Walter appeared for the petitioner and stated that they are asking to continue to the next meeting.

Mr. Shipley made a motion to continue the item to the next meeting. Mr. Duhamell seconded. The motion passed 6/0.

Old Business, cont.

Town of McCordsville Request for an Amendment to the Town Zoning Ordinance for the Mt. Comfort Rd Overlay District.

Mr. Crum asked that the discMt Comfort Overlay needs to be continued

Ms. Schneckenberger made a motion to continue the item to the next meeting. Mr. Strayer seconded. The motion passed 6/0.

Announcements

The next meeting will be June 21, 2022,

Adjournment

There being no further business, the meeting was adjourned.

Appendix 1

Portion of Mark Mills testimony regarding his well during the Public Hearing:

Mr. Mills: ... the things I want to talk about today is one is my well is right here. I don't want the well affected. When I say not affected, I just mean the quality of the water that I can use to stay as it is today. I monitor it at two independent labs so I don't have to worry about lab error, not just for standard drinking but also for over several 100 pesticides because [unintelligible]. So my request is that if it is affected that I get it cured. I'm not sure how you would like me to go about that. Do I have to have my [unintelligible] about that or is it just something that we can talk about as a win-win community. [End of comments on the well]

Mr. Henderson's response to Mr. Mills' comments about the well:

Mr. Henderson: I have met with Mark as well, and I think Mark has met with the Town, he pointed out to me on this property where the well is in the back. We have landscaping, mounding, and so on, and again we have separation. There's approximately 30' separation here, the tightest spot we have. And of course, it expands around where we have additional mounding and landscaping that we've shown. [Mr. Henderson asked for the landscaping plans be shown on the screen.] Within that [the landscape plan] we do have a number of trees that are shown planted around the property. One of the things we talked to Mark about was we are more than open to take those plants and shift things around. He does have quite a lot of existing landscaping on the lot as well and we would adjust, work with him to adjust plantings. Fill in some of the spots where he doesn't have landscaping on the property to help create a screen.

[Discussed location of sanitary, drainage, and pond safety]

Mr. Stettler: It may be I missed it but did you address the well? What are you doing to try to protect it.

Mr. Henderson: We having mounding and landscaping, this is a grass area here. As far as we've seen today, what we are seeing right now, this is agricultural field. The pesticides he is getting, the fertilization and so on, is significantly higher right now under an agricultural condition than what he's going to see with this potentially becoming a residential. Those property owners will probably put some fertilizer down on their lot. The amounts and so on, on that is not going to be anywhere close to what he has potentially risk of currently with agricultural use.

Mr. Morelock: [unintelligible]

Mr. Witsman took the floor to address drainage questions and sewer service.

Mr. Crum addressed the Members.

Mr. Stettler asked the Members and Mr. Crum for any additional questions and comments.

Mr. Crum responded.

Mr. Stettler: ... if there are not additional comments...

Mr. Mills: [unintelligible]

Mr. Morelock: The public hearing part is over.

Appendix 1

Mr. Mills: I thought there was a rebuttal?

Mr. Morelock: He just gave it.

Mr. Mills: He wasn't accurate.

Mr. Morelock: Well, you can have that [cross talk]

Mr. Morelock: I'm just saying that part of the hearing is over. [cross talk]

Mr. Morelock: There are other hearings you can participate in if you have a question. [cross talk]

Mr. Stettler: I'm going to entertain his questions.

Mr. Mills: Respectfully, thank you very much. I think it's a great project. The meetings I've had so far are wonderful and it's [unintelligible] a real win-win. But I have data from two labs to tell you what I have in the water and what I don't have. [unintelligible] I'm going to be having another set of data from the same labs, the same information so I would be glad to submit these data points to you. I have a well with this amount of volume, which I would be glad to submit to you.

Mr. Stettler: What did you say that he said was not truthful?

Mr. Mills: I didn't say he wasn't truthful, I said he didn't have the data. He says it won't affect me. What data does he have? He doesn't have research to prove that I'll have less water. That I can't run my business, I can't water the plants. That the volume is low, that I have to go to city water and I can't afford it.

Mr. Morelock: This is not an issue for the Plan Commission.

Mr. Mills: He can't say that for the record because it's not true. He doesn't have any data to prove I won't be affected. I ask that I be protected. That's all I ask. If I'm affected I be cured.

Mr. Morelock: Well, that's a lawsuit.

[cross talk]

Mr. Mills: I'm asking that you consider my rights here, my property rights, my well rights. It's something that's very important. That's all I'm asking.

Mr. Morelock: I understand that you don't want to listen to us, but the fact of the matter is, as a property owner, if somebody else on another property affects yours, you have a right to seek address, but this Plan Commission does not have the right to require that of this property owner. And as far as what Richard said, and maybe others heard differently, he said you would have less chemicals, if there were any, coming on to your property from this project than you had from the farm field. And they would be hooked with city water and not taking water from your aquifer. That's all he said. He didn't say you wouldn't have any problem or that you would have problems. Be that as it may, the Plan Commission does not have the legal jurisdiction to force a property owner to pay compensation to another property owner barely upon an allegation. You have to prove that to a court of law.

Mr. Mills: It can be part of Rivendell's covenant.

Mr. Morelock: It is not. It is not within our ability to require that of a property owner.

Appendix 1

Mr. Mills: Part of what I'm doing is explaining to you my concerns. Having that in the public record.

Mr. Morelock: I understand that, but you are asking for us to make a requirement that they compensate you, and we can't do that.

Mr. Mills: I'm telling you that the project may have a major effect ...

Mr. Morelock: Or it could have none, so we just have to wait

[cross talk]

Mr. Morelock: I took it as you were asking us to compel them to agree...

Mr. Mills: I want you to consider the fact that he has nothing to prove that it won't.

Mr. Stettler: You are on the record.

End of discussion about the Mr. Mills well.