

RECORD OF PROCEEDINGS

Minutes of

Meeting

CONCORD TOWNSHIP BOARD OF TRUSTEES

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held

May 17, 2017

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Call to Order

The Concord Township Board of Trustees met in special session on Wednesday, May 17, 2017 at the Concord Township Administrative Building. Chairman Bart Johnson called the meeting to order at 6:35 p.m.

The purpose of the meeting was for the continuation of the rezoning hearing and preliminary development plan approvals originally held April 19, 2017 for applications #ZC012017 and #ZC022017, both from FR1 to PRD, and as recommended and approved by the Concord Township Zoning Commission and Delaware County Regional Planning Commission, for parcels #50034001008000 and #60022001016000, by applicant Metro Development of 470 Olde Worthington Road, Westerville, OH 43082. Originally proposed were 126 dwelling units on 63.72 acres on Dublin Road (density of 1.99 units per acre), and 98 units on 50 acres on Concord Road (density of 1.96 units per acre).

The roll was called and attending were Trustees Bart Johnson, Joe Garrett, and Jason Haney. A guest attendance sheet was provided for meeting attendees. The swearing in of meeting attendees was performed by the court reporter.

RIVERSIDE HIGHLANDS

Developer Testimony

Mr. Joe Miller, of Vorys, Sater, Seymour and Pease LLP, 52 E. Gay Street, Columbus, Ohio, spoke on behalf of the applicant and owner. The applicant has provided an amended application for the township, and believes the developments are good for the township and the best use of the property. The applicant's appraiser was introduced, who was present to speak about the property's best use and highest value. Mr. Miller turned over the presentation to Mr. Joe Thomas of Metro Development, and Mr. Todd Faris, of Faris Planning & Design.

Several modifications were made to the Riverside Highlands development plan based on recommendations by the Delaware County Regional Planning Commission, Delaware County Engineer, and Concord Township Zoning Commission. *The north to south roadway was shifted slightly, and the quality and architecture of homes increased within the development. Display boards were presented showing the updated layout and home elevations with revised standards. The minimum square footage of homes was increased, along with four sides of natural materials required.*

The Board of Trustees had suggestions of increasing buffering and lowering density, so *landscape screening was enhanced, and five units were cut to lower the density ~~to~~ from 1.99 units per acre to 1.90 units per acre. The open space was slightly increased. The entrance was moved back another 240 feet off Dublin Road.*

An updated summary, PRD text, and phasing/landscaping plan was provided.

The landscaping plan was reviewed. The Trustees would like a *continuous buffer to surrounding properties, with staggered trees of different types and heights (evergreens, shade and ornamental trees), to provide seclusion of the development. They specified a "12 to 4 per 100 feet" ratio for screening. Mr. Johnson requested the screening be continued along the south line of the development. Mr. Thomas said the trees will be in a preservation zone so cannot be cut down in the future, with long term maintenance by the HOA.*

Comments

John Szanati, 6857 Duffy Road, said if the Trustees allow that density now, all developers will push for that in the future; it sets a precedent.

Tom Hindes, 5807 Buechel Drive, asked who would maintain the property since it is within the Concord-Scioto Community Authority. Mr. Thomas said the maintenance plan is under the HOA, with fees set from a community budget standpoint (probably in the \$125-\$400 per year range). He clarified the Community Authority is an assessment that fluctuates with property taxes. It is used for public improvements like sewer, water, storm, roadways, etc.

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Jerry Stone, 5688 Elmgee Drive, asked what working construction hours would be. *Trustee Johnson requested 7:00 a.m. - 6:00 p.m. weekdays, 9:00 a.m. - 5:00 p.m. Saturdays, and no work on Sundays. Mr. Thomas agreed to the construction hours.*

Mr. Johnson inquired about utility service to the development. Mr. Thomas said Metro Development will run the sewer to the property line through acquired easements. The development will also be served by Columbia Gas. Mr. Johnson noted Southeastern Gas already runs down Moore Road. Existing homes can tie into gas.

Mr. Johnson also asked about bonding of the development, or for the developer to provide the ability to be bonded (by a surety). Mr. Thomas said they have never done bonds for developments, but could provide a letter of credit issued to a municipality if a development is not completed within the time frame or scope of work. He shared all the contractors would be bonded, and the County accepts payment coverage (bank letter of credit). Mr. Miller believed the letter of credit from his client would be satisfactory. After more discussion on budgets, Assistant Prosecutor Andrew King said a bond was not defined in the zoning code, so a "binding agreement", such as a *letter of credit, would satisfy the code requirement.*

Mr. Stone asked what road improvements would be made to Dublin Road. Mr. Thomas answered a northbound left turn lane would be constructed during the first phase. Mr. Hinds shared traffic concerns, which are outside township control, and governed by the Ohio Department of Transportation.

CONCORD HIGHLANDS

Developer Testimony

Mr. Faris shared the second updated development plan, which included the *same commitments as Riverside Highlands, in regards to quality and architecture of homes, square footage requirements, natural materials, increased buffering and lower density. Two large, existing trees would be preserved, and three lots were removed to lower density to 1.90. An extra layer of buffer was added around the site, along with a single row of buffer along the north property line, and increased south and east buffering.*

Comments

Trustee Haney requested a *double layer of screening behind existing homes on Concord Road, with an intermixed tree layer on the mounding. He would like mounding and layering of "12 to 4 per 100 feet" ratio along the back side, and to keep as many existing trees as possible.*

Molly Yankus, 6895 Duffy Road, was concerned about increased traffic on Concord, Home and Duffy Roads. Jay Lyle, 3029 Moore Road, added dump truck traffic on Moore Road is bad already.

Ray Spielman, 7887 Concord Road, lives near a drainage stream that gets flooded with heavy rains. Mr. Thomas stated the water will be slowed down on the development site, and containment areas (designed for 100 year rain) have a 48 hour release rate.

Linda Issel, 6605 Duffy Road, had concerns with density and the loss of "peace and quiet and elbow room" with the increased people, traffic, and noise that development will bring. Trustee Garrett shared the zoning code allows development. The goal is to find the median between preserving the rural character, but still allow what is in the code and comprehensive plan.

Mr. Stone asked about the condition of the site if development stalls, or if the site sits idle. Mr. Thomas said they have not had that issue before. They develop in phases to cover the developing. Mr. King noted it would be very rare for that to happen in this part of the county, but that would be part of the bonding requirement and letter of credit.

Andrea Yagoda, 7598 Concord Road, asked if there was a set deadline for development, and when all would be completed. Mr. Thomas answered *there are phases for the infrastructure, but no set dates. Lots will be maintained by the developer, as required by zoning.* Ms. Yagoda also asked about snow removal, and noted the developer did not want to meet with residents to discuss the development or referendum.

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In summary, Mr. Thomas gave *benefits for the township to allow this development: quality housing here in the township with landscaping, trails, ponds, tot lots, and connection to community; \$350,000 homes with all natural materials with full buffering adds taxes to the township and schools; increases overall property values, and would be a high quality community.*

Mr. Thomas stated the developments would not be put in a tax increment financing agreement (TIF), and would be only developer funded.

Mr. Spielman asked if the schools could handle the increase in population, and said taxes would increase if schools expand. Trustee Johnson responded it would not be a hindrance.

Mr. Szanati asked if there was a reason the developer would not listen to the citizens? They can spend money for landscaping versus money against a referendum.

Trustee Johnson reminded the residents that development is permitted in the zoning code. What was presented is better than a starter home community with 1.5 units per acre density and no landscaping. It also wouldn't protect the rural character of the area. The County put in the sewer plant for development here. The township is not allowed to consider traffic for development approval. Mr. Thomas added they build sustainable communities, and would invest about \$5.7 million in hard surface infrastructure.

Mr. Miller introduced Debi Wilcox, commercial real estate appraiser since 1984, who has worked in 45 of Ohio's 88 counties. She has worked with property owners, attorneys, and developers, and completed about 1,000 vacant land appraisals. *In Ms. Wilcox's opinion, the residential development proposed is the highest value and best use for the property.* Mr. Miller noted the developer could do 1.5 density, but that would not cover the infrastructure and quality desired for the development.

In Mr. Miller's opinion, if the Trustees cannot approval the development, they are denying the property owner economic value of the property. The developer has done everything asked by the Board, and has followed full conformance with the township's zoning code and comprehensive plan (density shall not exceed 2 units per acre). Ample open space and other quality increases are included. Denial of the development is to deprive the owner's economic value and best use of the property, and would open up the township to significant liability. He feels the development use is "smart growth" for the township.

Assistant Prosecuting Attorney King acknowledged residents sharing their concerns, and also acknowledged Mr. Miller's establishing a case record. Mr. King noted township zoning follows the premise that owners can use their property how they want to, as long as the use follows the zoning code. Zoning is not to prohibit an owner from using their land. The code is permissive for densities between 1.5 and 2 units per acre. He added development profitability is not a zoning factor.

Mr. Chris Rinehart, outside counsel for the township, suggested the Trustees incorporate the oral commitments by the developer as conditions of approval.

(A five minute break was taken at 9:30 p.m.)

Trustee Garrett asked who would maintain the paths if they deteriorate, and how would the township be assured the HOA would maintain. Mr. Thomas answered *all paths would be maintained by the HOA, and would be included in the deed restrictions to maintain capital improvements. Paths would be assessed and improved when needed.* Discussion was held on paths remaining open to public.

Trustee Garrett also stated the *roads within the development need to be constructed to county standards.*

Action

After more discussion, Mr. Johnson moved (Res. #051717-1) and Mr. Haney seconded to approve rezoning applications #ZC012017 and #ZC022017, for Riverside Highlands and Concord Highlands developments as presented, with all oral modifications by the developer incorporated in the final plan (noted below), for 95 homes in Concord Highlands and 121 homes in Riverside Highlands, with both the PRD and development plan accepted when both parties agree and abide by the oral commitments made this evening. Upon roll call vote: Haney-yes, Garrett-yes, Johnson-yes.

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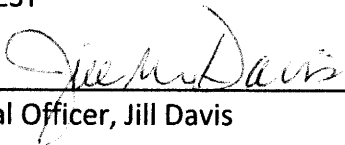
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Development plan oral modifications to include:

- Riverside Highlands - Provide a continuous landscape buffer to surrounding properties, with "12 to 4 per 100 feet" shade/ornamental/evergreen tree ratio, also to be continued along south line of development.
- Concord Highlands - Provide a double layer of screening behind existing homes on Concord Road, with an intermixed tree layer on the mounding of "12 to 4 per 100 feet" ratio along the back side, and to keep as many existing trees as possible.
- Trees to be in a preservation zone so cannot be cut down in future, maintained by homeowner's association.
- Construction hours: 7:00 a.m. - 6:00 p.m. weekdays, 9:00 a.m. - 5:00 p.m. Saturdays, and no work on Sundays.
- Bank letter of credit to satisfy the code requirement of developer's ability to bond.
- Developments will not be put in a tax increment financing agreement (TIF).
- All paths will be maintained, assessed, and improved when needed by the homeowner's association.
- All roads within the development will be constructed to County standards.

As there was no further business, Mr. Garrett moved and Mr. Haney seconded to adjourn.
Vote: Haney-yes, Garrett-yes. Johnson-yes.

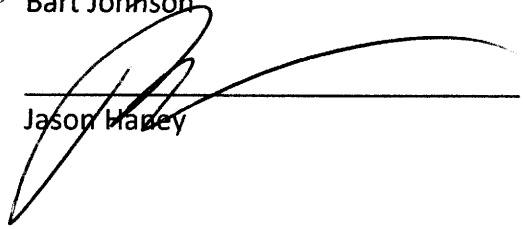
ATTEST


Fiscal Officer, Jill Davis

BOARD OF TRUSTEES


Joe Garrett


Bart Johnson


Jason Haney

