

SPECIAL PLANNING COMMISSION MEETING

October 29, 2009

The Planning Commission convened in Courtroom No. 1 at City Hall for their regularly scheduled meeting. Members in attendance were Mr. Andrew Eade, Mr. Brian Temming, Ms. Christine Shoop, Mr. David Komjati, and Chairman Thomas Fitzgerald. Also present were City Manager Rita McMahon, Assistant City Manager Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons and Secretary Lynn White.

Chairman Fitzgerald indicated a motion was needed for the Tabled Business to be removed from the table. Motion by Ms. Shoop, second by Mr. Komjati to remove the Preliminary Plat for Windmill Estates Subdivision resubmission from the table. On roll call all members answered “yes”.

TABLED BUSINESS:

Preliminary Plat Resubmission for Windmill Estates Residential Subdivision – consisting of 179 Single Family Lots located between Heisley Park Subdivision and Shamrock Boulevard.

Chairman Fitzgerald asked for the City to give a presentation on this item.

Mr. Schaedlich stated that it has been awhile since this item has been addressed. He indicated he would give a quick review of the memorandum submitted to the Commission dated October 23, 2009. There are eight items that are addressed in the memo. They are:

1. Section 1113.02 requires conformance with the Development Plans and Zoning. The Planning Commission has reviewed and accepted the proposed relocation of Jackson Street and the proposed relocated Jackson /SR 44 interchange location as part of its long range thoroughfare plan for the area. The street pattern indicated in the proposed preliminary plat conflicts with that proposal; 2. Section 1113.04 Street Design, requires the street pattern to consider “... their relation to existing and planned streets... and in their appropriate relation to the proposed uses of the land to be served by such streets.” It further requires the sub-divider to provide the necessary right-of-way for the widening, continuance or alignment of such streets in conformity with the plan. The location of the streets in the Preliminary Plat is incompatible with the existing and planned streets (relocated Jackson/SR 44 interchange) and the location of the streets in the Preliminary Plat is also incompatible with the public convenience and safety; 3. Section 1113.07 establishes design criteria for collector streets. Elizabeth Boulevard is a collector street as defined by Section 1105.04 (qq) of the Subdivision Regulations. Shamrock Boulevard is an arterial by the same definition. Elizabeth Boulevard would intersect Shamrock Boulevard only three hundred (300) feet from the above-referenced intersection in lieu of the required spacing of one thousand, three hundred and twenty (1,320) feet. Additionally, Elizabeth Boulevard also comes up short in terms of the required width standards as provided in the Table 3 “Collector Street Design Standards” of Section 1113.07. Required pavement width is thirty-six (36) feet, while twenty-eight (28) feet is proposed by the Developer; 4. Section 1113.10 Intersections, the minimum centerline, offset of adjacent intersections in feet for a collector street and an arterial street should be 1,320 feet as indicated in Table 4, Minimum Centerline Offset of Adjacent Intersections (ft), (4). Elizabeth Boulevard’s intersection with Shamrock Boulevard is only three hundred (300) feet from the proposed intersection of Shamrock Boulevard and relocated Jackson Street; 5. Section 1113.11(c), points of access to an arterial street shall be spaced at a minimum of 1,320 feet. Elizabeth Boulevard’s connection to Shamrock Boulevard is only three hundred (300) feet from the proposed intersection of Shamrock Boulevard and relocated Jackson Street; 6. Section 1113.16 (e) indicates that double frontage lots should be “... avoided except where the Commission determines that it is essential to provide separation of residential development on arterial streets.” Double frontage lots occur in this development. The Planning Commission has not made the required determination; 7. Section 1113.22 Public Sites, Open Space and Natural Feature requires “... every subdivider of land for subdivisions not containing public sites shall be requested to provide land or payment in lieu thereof for that portion of benefits from public sites accruing to his land as determined by the Commission”. The Developer has not provided for or addressed this requirement; 8. Section 1109.07 – Preliminary Plat Contents requires specific items to be contained in the preliminary plat. However, there were items identified in the memorandum that have not been addressed previously presented to the Developer and dated September 1, 2009. Mr. Schaedlich indicated that since that time there was another preliminary plat that was submitted that didn’t change the layout of the lots but did address items of information that were requested in the memo dated 9/30/09 regarding the preliminary plat contents.

Mr. Schaedlich referred to the Preliminary Plat contents memo dated 9/30/09. The one item shown on the last preliminary plat submission was the proposed open space areas which are colored in purple and are also indicated in the Phase 1 area by purple striping. The memo states 1. The depth of sublots 168 through 174 were shortened to provide a potential area for a trail or a bike path connecting Elizabeth Boulevard in the Heisley Park Subdivision to Stonehedge Drive; and 2. The inclusion of the 1.3956

acre wetlands area on the east side of Shamrock Boulevard shall not be permitted to count as open space for the Windmill Estates Subdivision because it is not contiguous to other land in the subdivision. Mr. Schaedlich stated that the accessibility and usability are also strongly questioned.

Chairman Fitzgerald asked if members of the Commission had any questions or comments. There being none, he asked the applicant to address the Commission.

Mr. Richard Osborne, Jr. thanked the Commission for their review on this item once again. He commented that he is looking for approval on the preliminary plat as it has been submitted. Mr. Osborne stated that he understands that the previously approved plan is available if there is a desire to use that plan. He indicated at this point he wants approval of the plat that has been currently submitted and would like action taken whether it is approved or denied. He plans to be working on this project over the next ten plus years and he realizes there is some controversy over this. He stated there are a number of other projects that he is active on in Painesville. He indicated he is working on bringing business into Renaissance and redeveloping the Square. Mr. Osborne stated he has a lot of positive projects in Painesville and does not like coming before the Commission and be controversial. At the same time he does not feel that he should be held up or have his design dictated by something that might not happen even though it is in your master plan. At this point he feels very strongly there is a legal precedent that will prevail. He is looking for an action by the Commission this evening.

Mr. Lyons asked to comment. He stated the applicant said that the other plan that had been approved is still approved. There was a plan that had previously been approved, but his understanding is that plan is no longer available to be used because it is past the one-year time period. The Commission may reconsider that plan if the applicant wants to resubmit it, but the only plan before the Commission right now is the revised plat for Windmill Subdivision. Mr. Lyons stated that if this is turned down, there is not an approved plan that is before the City at this time. He asked the applicant if that was his understanding. Mr. Osborne indicated that he had the understanding that the previous submitted plat would be approved if it was brought back for reconsideration, but he is not looking for that at this point. Mr. Lyons stated that other plan had been approved by the Commission at one point and if it was resubmitted it would be available to be reviewed by the Commission again based on the changing conditions it would be up to the Commission to make that decision. That is not the issue before the Commission, other than there had been a previously approved plan for this property and it has lapsed for the development not moving forward.

Chairman Fitzgerald asked if members of the Commission had any comments or questions.

Ms. Shoop stated the last time this issue was before the Commission there were a couple of items being questioned. She questioned which version of the plat was the correct version that is to be voted on. Ms. McMahan stated the plan being discussed is dated August 11, 2009 and has the purple and green areas showing open space and phase one. She stated there was a revision to the plat which is indicated as September 28, 2009.

Mr. Schaedlich reviewed the changes that were made within that revision with the Commission. He indicated there were informational items added and the street names were changed with this most recent version. Sapphire Drive was changed to Windmill Drive; Garnet Way was changed to Stonehedge Drive; and Opal Lane was changed to Prairie Lane (Prairie is misspelled on the Plat). The Lake County Planning Commission was consulted for the use of the street names. Windmill and Stonehedge are already in use in Concord Township and the 44077 zip code. The use of these names is strongly discouraged to avoid confusion in the 911 System.

Mr. Schaedlich stated the applicant did indicate the elevations and the difference in slope along Shamrock Boulevard; the electrical boxes were relocated as suggested; and the areas of open space which is where the wetlands area and easement cross on the east side of Shamrock Boulevard were highlighted on the plat. Mr. Schaedlich indicated the basic format of the subdivision is the same.

Ms. Shoop thanked Mr. Schaedlich for the update and stated she wanted to be sure as to what had been done since the last meeting.

Mr. Komjati commented that he appreciates Mr. Osborne's desire to move forward with this project. He stated the members were put on the Commission to provide vision and give direction to what the City should look like in the future. Given the number of items that are listed in the report that conflict with the vision of the City, he stated that he cannot support the design of this plat.

Chairman Fitzgerald indicated he feels the same way. The City works hard on creating the plans and visions for the future. Mr. Komjati added that the charge for the Planning Commission is to stay with the Plan of the City.

Chairman Fitzgerald commented that the community appreciates Mr. Osborne's work within the City and the quality he brings to the table. He stated that he cannot support this plat as submitted.

Mr. Temming asked if he could make a motion.

Mr. Lyons suggested to the Commission that there be two separate motions for this request. He indicated a motion should be made in regards to the Memorandum dated 10-23-09 from the City Planner adopting the findings and reasons within the memo. A second motion should be made by the Commission regarding the plat.

Ms. Jody Tomaszewski of Dworken and Berstein asked if they could find out which items have been corrected from the memo. Mr. Lyons explained that the Commission has a different memorandum than the one she is referring to. Mr. Lyons indicated the applicant may not have the memorandum that is under discussion. He stated that the last meeting that the applicant was present there was a list of stipulations created for this item. After that meeting the administration went back to the plat to review the stipulations. Since an agreement was unable to be made between the applicant and the City, the administration reviewed the ordinances regarding preliminary plat approval. A memorandum was then created outlining the deficiencies in the plat based on the ordinance. The memorandum dated October 23, 2009 was read by Mr. Schaedlich and distributed to the members of the commission. Ms. Tomaszewski stated that it sounds similar to the memo dated September 24, 2009. They tried to correct all of the items listed with the exception of the connection to proposed relocated Jackson Street. Mr. Lyons stated the City, based on what happened at that last meeting, decided to go in a different direction when it was apparent the developer was not willing to connect to Shamrock Boulevard further down the road, possibly jeopardizing relocated Jackson St and the interchange. Mr. Lyons stated when the developer was real clear that they were not willing to do that, the City went back to its ordinances and drafted this October 23, 2009 memorandum, which is the memo Mr. Schaedlich explained to the Commission and to the audience earlier. Ms. Tomaszewski asked if this memo contain information on elevations. Mr. Schaedlich responded no, that memorandum is the one dated September 24, 2009.

Mr. Lyons commented that the City believes that how the applicant connects into Shamrock Boulevard is a fundamental problem that prevents this from going forward; that along with the other items listed in the memo. The City is recommending that this preliminary plat be denied based on all the items listed and not be approved with stipulations. Mr. Lyons stated that conceptually the plat could be approved with a list of stipulations, however, the City has a right to deny the application.

Chairman Fitzgerald asked for a motion on the City Planner Memorandum relating to Windmill Estates Subdivision.

Motion by Mr. Komjati; seconded by Mr. Temming, for the Planning Commission to adopt and approve the findings and reasons that are stated in the October 23, 2009 Memorandum submitted by the City Planner relating to the Preliminary Plat Resubmission for Windmill Estates. There being no further discussion, the secretary was asked to call the roll. On roll call Mr. Komjati, Mr. Eade, Mr. Temming, Ms. Shoop and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald asked for a motion on the Preliminary Plat for Windmill Estates Subdivision.

Motion by Mr. Temming, seconded by Ms. Shoop to disapprove the Preliminary Plat resubmission for Windmill Estates Subdivision dated August 11, 2009 and revised September 28, 2009 based on the findings and reasons that are set forth in the October 23, 2009 Memorandum submitted by the City Planner relating to the Preliminary Plat Resubmission for Windmill Estates. There being no further discussion, the secretary was asked to call the roll. On roll call, Mr. Eade, Mr. Temming, Ms. Shoop, Mr. Komjati, and Chairman Fitzgerald answered "yes". Motion carried.

ADMINISTRATIVE REPORT:

Review of Conditional Use Permit (Refusal No. 2111) issued to Lakeview Bluffs LLC and Tierra Solutions, Inc. for soil removal at Elm Street (Parcel Numbers 15-A-019-0-00-013-0; 35-A-002-0-00-002-0; and 35-A-002-0-00-003-0): Granted February 21, 2007; reviewed December 13, 2007; Extension Granted December 2008 with stipulation to be reviewed in September 2009.

Chairman Fitzgerald indicated this item is being reviewed based on the stipulations placed on the Conditional Use Permit extension from 2008. He asked if the applicant would like to give the Commission an update.

Mr. Todd Davis, President of Hemisphere Corporation, explained that he would like to give the Commission a brief update on their Lakeview Bluffs Project. Over the past year they have transported approximately a half million cubic yards of clean material from the City of Painesville, over the bridge built on the Grand River, to improve the former Diamond Shamrock Painesville Work Site. Mr. Davis stated one of the issues they deal with is curiosity of the site and the fact that people do not see the progress due to the large scale of the area being worked on. Given the current state of the economy, they have made tremendous progress over the past year. They have done quite a bit of the remedial work. They have been focusing on the site known as OU2 which is the cap of the old chromium landfill

that was on the property. They have improved the cap, about 180-acres, by making it impermeable. This is where the golf course will be located. Mr. Davis indicated they have been working very hard on the regulatory work, by the end of this year almost 200-acres along Lake Erie and Fairport Nursery Road will be through the remedial process. Mr. Davis and Mr. Matt Montecalvo explained in detail the process that was done to improve the cap on the chromium landfill. They also indicated they have been successful in keeping the hauling trucks off the city streets by utilizing the bridge over the river.

Mr. Davis explained that next year they anticipate many activities being completed. This will include working through the regulatory process for the balance of the golf course and ball fields. These areas are located north of the river. They also anticipate working on the vineyards located within the City of Painesville. He stated that they recently had harvested product from the vineyard area. They are making good progress and have no issues with the Ohio EPA. They look forward to their continued progress and breaking ground on the interesting portions of the development.

The members of the Commission asked for some additional clarification of the areas Mr. Davis spoke about. The question was asked what the timeframe was to completion and opening. Mr. Davis stated that they had recently looked back at the timeline and with the current market conditions they have been fortunate they have incurred no debt or additional burden. Initially they had thought they would be selling homes at this point. They are on track mostly and feel that they will be selling homes in 2012 since the improvements will be in place and hopefully the market will be in recovery. The question was asked if the golf course will be completed before then. Mr. Davis indicated yes, the golf course will be open sooner. He explained that it takes about 18-months to seed the course. He stated the area along the Grand River that was used as a dumping ground has been cleaned up and paths have been put there as a river walk. They are looking to collaborate with the MetroParks who have been big supporters of the project since the beginning.

Ms. McMahan asked about how much soil removal is anticipated for the City of Painesville. Mr. Davis stated they feel they will need at least three more years for the Conditional Use Permit for this site. They are not creating a large hole from the borrow area, they still need the dirt for the other side of the site. Ms. McMahan asked if a one-year extension is granted do they anticipate another year. Mr. Davis stated that due to the processes that need to happen, as long as the dirt is available, they will be continuing the ongoing process. They are being very proactive as far as the residents' complaints in the area. They only received two phone calls this past year which was regarding dust on a windy day. They immediately contacted the area councilperson and everyone is on high alert to make sure the dust control is not an issue. They have not received complaints in regards to noise or any other complaints arising from this project.

Ms. McMahan stated if a one-year extension is provided, it is anticipated that the applicant would be back next year providing an update and potentially requesting an additional extension for at least a year. Mr. Davis indicated that is correct.

Ms. McMahan commented that Mr. Davis is correct; the City has not received any complaints regarding this project. The only calls received are inquiries about what is going on and how far off the project is from being completed.

Mr. Komjati inquired about how the Commission should act on this Agenda item. Ms. McMahan stated there are two stipulations within the original permit that need to be revised, item 3 and item 18, to reflect a one-year extension on both the review and permit.

Motion by Mr. Komjati; seconded by Ms. Shoop, to approve the twelve (12) month extension request for the Conditional Use Permit for Refusal #2111 with the eighteen stipulations that were agreed upon for the original permit with an expiration date of December 30, 2010; and the applicant is to provide an update in September of 2010. There being no further discussion, the secretary was asked to call the roll. On roll call, Mr. Temming, Ms. Shoop, Mr. Komjati, Mr. Eade, and Chairman Fitzgerald answered "yes". Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

There were no other items to come before the Planning Commission.

ADJOURNMENT

There being no further business, the meeting was adjourned.