

September 13, 2018

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, September 13, 2018, at Town Hall located at 1150 W. Guy McCown Drive. Sandra Hash called the meeting to order at 6:00 p.m.

Roll Call: Members present were: Don Calvert, Zach Michael, Pat Wesolowski and Sandra Hash. Terry Baker, David Drake and Brian Miller were absent. Kevin Tolloty, Planning Director; Rick Coppock, Bynum Fanyo and Associates, Town Engineer, and Darla Brown, Town Attorney, were also present.

Sandra Hash advised there was a request to table Centennial Park, Signing of the Findings of Fact. Ms. Brown explained in order for a Plan Commission action to be official it has to be approved by a majority of the body and not a majority of the quorum. Since Mr. Calvert has recused himself on the Centennial Park vote, three people can't approve the findings. Therefore, a Special Session will be scheduled. Ms. Hash asked if the Findings of Fact had been changed since the last meeting because they did vote to approve them. Ms. Brown thought it would be helpful to have written findings that are signed. They had not been changed other than adding the evidence that was heard and adoption of the staff reports.

Sandra Hash led the Pledge of Allegiance.

Approval of the Minutes

Sandra Hash entertained a motion for approval of the minutes for the regular meeting on August 2, 2018. Pat Wesolowski so moved. Don Calvert seconded. Motion carried.

Monthly Conflict of Interest

Old Business

Request to Amend Final Plats of Seven Lots (2.25 Acres) for Edgewood Heights, Section 3 and Edgewood Village Homes, 7200 Block of W. Mustang Drive; Petitioner: Double Clark, LLC; Case No. PC2018-12

Kevin Tolloty, Planning Director, explained this request is continued from the last meeting. There were questions about drainage around the cul-de-sac. There was a small change to one of the plats and everything else remains the same. The north side plat remains the same. The south side plat has an easement that is being widened between Lots 25 and 26.

Rick Coppock, Bynum Fanyo and Associates, explained the utility easement was changed to a utility and drainage easement between Lots 25 and 26. Mr. Wesolowski asked if he approved of where the drainage will be located. Mr. Coppock answered yes, they had an easement on front of the lots and needed to add another one. Their surveyor checked the drainage area and recommended a 15" drainage pipe which is good. Mr. Calvert asked if it will remain a senior citizen development. Mr. Tolloty answered it had been removed from the covenants. Mr. Calvert asked whom removed it. Mr. Tolloty explained it was officially removed by the developer. It is uncertain if it had been enforced for some time.

David Ridge is concerned the drainage ditch will be filled in. Mr. Coppock told him people could not drive through the drainage ditch or fill it in. Mr. Coppock explained the purpose of the drainage easement is to maintain the drainage through those areas so they can't be filled in or built on. This is why they requested the easement between Lots 25 and 26.

Pat Wesolowski asked, for example, if he purchased 10 acres and the Town agreed it was for 55+ and he sold it, can the developer remove the age requirement. Ms. Brown is uncertain when the age requirement was removed but it's going to depend what the deed and covenants/restrictions say. Mr. Tolloty is uncertain when it was removed but it was part of the covenants and not anything the Town would enforce. It was up to the developer to change it in accordance with the homeowners' association guidelines. Ms. Hash asked if anytime they change the plat would it be an opportunity to change the covenants. Mr. Tolloty answered they can change the covenants at any time. Ms. Hash asked if the covenants are an agreement between the purchaser/property owner and the developer. Ms. Brown answered it would depend on the declarations and the covenants/restrictions. If the developer goes to the homeowners' association, they can vote to remove it.

David Ridge agreed the development was to be for 50+. Mr. Coppock told him they couldn't build on the lots where the drainage was to go around and they were going to make it a park. The duplexes were to be 50+ but they are not. The apartments were to be for senior citizens but anyone can move in them. Mr. Michael stated it would be contingent on the people who owned the apartments. Mr. Ridge rebuked the only reason it passed was because it would be for 50+. If they allow it to change then anybody, at any age, can move in. Mr. Tolloty clarified the age requirement for the lots had nothing to do with the plat amendment that realigns lots and fix easements. The age restriction is a private matter. It had been discussed with the Plan Commission previously but was never intended to be enforced by the Town. How they resolve it is the responsibility of whomever owns the lots and not the Plan Commission.

Sandra Hash entertained a motion. Sandra Hash made a motion to approve the request to amend final plats of seven lots on 2.25 acres for Edgewood Heights, Section 3 and Edgewood Village Homes, 7200 Block of W. Mustang Drive with the Petitioner, Double Clark, LLC, Case No. PC2018-12. Zach Michael seconded. Roll call vote: Don Calvert – yes; Zach Michael – yes; Pat Wesolowski – no; and Sandra Hash – yes. Motion failed, 3-1.

After a discussion, it was decided the request would be put on the agenda for the Special Session.

Bob Double, Double Clark, LLC, asked Mr. Wesolowski what he proposed. The age restriction only applied to Edgewood Village Homes on the south side. Edgewood Village Heights which consists of the lots on the north side never had an age restriction in the covenants/restrictions. In December 2017, the covenants/restrictions were modified for the lots on the south side. They went through the proper notification with all of the present lot owners and explained they were proposing to remove the age restriction. A meeting with three homeowners was held on December 27, 2017, and they agreed with the proposal to remove the age restriction. No one voiced concerns for keeping the age restriction. The current issue has nothing to do with age, it is to allow them to build on the lots. They've built two homes so far and both were for people 50+. There are contracts on two other lots for people under 50 years of age. He requested a re-vote. Ms. Brown asked they be given time to find the declarations/covenants or any other document to give the Plan Commission a comfort level as to what happened and when. Ms. Hash mentioned there were two neighborhoods in Ellettsville that were going to be senior neighborhoods, Edgewood Village Homes and Hidden Meadow. Neither development could sell all of the lots. Hidden Meadow had one duplex built and it stalled. The development has now been bought out by another developer who removed the age restriction and built single family homes. In theory it was a good idea but it wasn't practical. Mr. Wesolowski suggested making a motion contingent on Mr. Tolloty and Ms. Brown researching the covenants/restrictions.

Pat Wesolowski made a motion to deny the final plat amendment PC2018-12. Ms. Brown advised there shouldn't be a motion to deny based on it being looked at the covenants/restrictions because it is not specific. Mr. Michael noted the minutes from the last Plan Commission meeting stated Mr. Tolloty said all of it was originally approved as a Planned Urban Development but it wasn't documented correctly. That is why 55+ wasn't enforceable. He thought it was put to rest at the last meeting. Being there was no second for the motion, Mr. Wesolowski's motion failed.

Centennial Park, Signing of the Findings of Fact, Case No. PC2017-25

See the explanation after Roll Call.

New Business

Voluntary Annexation of 4630 N. Thomas Road (32 Acres); Petitioner: Darby McCarty; Case No. PC201813

Kevin Tolloty, Planning Director, explained this is a voluntary annexation request for approximately 32 acres of land on North Thomas Road. There are a couple of structures on site and there is a single-family home under construction. Property is zoned Agricultural by Monroe County and will be zoned Agricultural-1. Staff recommends a favorable

recommendation to Town Council. Three parcels are to be annexed. Mr. Wesolowski asked if the property goes to Ratliff Road. Mr. Tolloty answered no.

Sandra Hash entertained a motion. Pat Wesolowski made a motion to approve Case PC2018-13, McCarty Annexation, to give a favorable recommendation to Town Council. Zach Michael seconded. Roll call vote: Don Calvert – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Request to Amend the Final Plat of Mary George Lot 2a Subdivision Located on N. Love Lane; Petitioner: Donna Morgan; Case No. PC2018-14

Kevin Tolloty, Planning Director, explained this request is for a plat amendment for Lot 2a in the Mary George Subdivision. The plat amendment splits off .426 acres from a larger piece that will be sold to the adjacent property owner who will build a pole barn on it. Staff recommends approval of the plat.

Sandra Hash entertained a motion. Zach Michael made a motion to approve the request to amend the final plat of Mary George Lot 2a subdivision located on North Love Lane; Petitioner: Donna Morgan; Case No. PC2018-14. Pat Wesolowski seconded. Roll call vote: Don Calvert – yes; Zach Michael – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried.

Planning Department Update

Kevin Tolloty, Planning Director, advised the next scheduled meeting is November 1, 2018. A special meeting will be scheduled within the next week. At this time, there are not any cases pending. Planning is working on code amendments to be presented at the next full meeting. The Comprehensive Plan was approved by the Town Council. Thank you to the Plan Commission for their assistance. Ms. Hash thanked Mr. Tolloty for his hard work on the project. It is a big improvement over the past Comprehensive Plan.

Privilege of the Floor

Adjournment

Terry Baker entertained a motion to adjourn. Pat Wesolowski so moved. Don Calvert seconded. Motion carried. Terry Baker adjourned the meeting at 6:31 p.m.

Terry Baker, President

David Drake, Vice President

Don Calvert

Zach Michael

Brian Miller

Pat Wesolowski

Sandra Hash, IAMC, MMC