

**GEORGETOWN-SCOTT COUNTY PLANNING COMMISSION
REGULAR MEETING
MINUTES**

MAY 10, 2007

The regular meeting was held in the Scott County Courthouse on May 10, 2007. The meeting was called to order by Chairperson Barry Brock at 6:00 p.m. Present were Commissioners Mike Bradley, Melissa Gregory, Greg Hampton, Janet Holland, Robert Hopkins, John Lacy, Jimmy Richardson, and Ralph Tackett, Planning Director Michael Sapp, Assistant Director Eric Larson, Planners Drew Ardary and Rhonda Cromer, Engineer Ben Krebs, and Attorney Charlie Perkins.

Chairman Brock welcomed Ralph Tackett as the new Planning Commissioner. It was noted that he was duly sworn in.

Motion by Lacy, second by Holland, to approve the April invoices. Motion carried.

Motion by Richardson, second by Hampton, to approve the April 12, 2007 minutes. Motion carried.

Motion by Bradley, second by Lacy, to approve the May agenda as presented. Motion carried.

Postponements/Withdrawals

Mr. Brock reported that the Lake Forest Phase 1 application has been withdrawn, and the Sycamore Place application has been postponed to the June meeting.

Motion by Tackett, second by Gregory, to accept the item for withdrawal and the item for postponement. Motion carried.

Consent Agenda

A representative of the Victoria Estates Phase 3B, Section B-4, Block 2 application agreed to their conditions of approval, and no concerns about the project were expressed by the Commission or the public.

Motion by Hopkins, second by Holland, to approve the one (1) item on the Consent Agenda subject to its conditions of approval. Motion carried.

PSP-2006-75 Crestwood Ironworks, LLC – Preliminary Subdivision Plat for thirty-one (31) cluster residential lots, one ninety-five (95) acre preserved tract, and five (5) additional tracts (not part of cluster) on 500 acres zoned A-1, located on the south side of Ironworks Road near Etter Lane.

Commissioner Holland recused herself from discussion and voting on this application.

Bruce Smith, representing the Newton family, adjoining property owners, filed a motion in April to dismiss or deny the application on the basis that the cluster regulations are invalid because they were adopted by the Fiscal Court and injected in the Subdivision Regulations. He felt that KRS states that the subdivision regulations are solely the province of the Planning Commission, and he reviewed the sequence of action taken by the Planning Commission concerning the regulations. He asked that the application be denied or dismissed because the regulations under which they are filed are not validly in place.

Mr. Perkins reviewed the process and motion that was made in approving the regulations. He stated that the general practice that the Commission has followed, which has been to approve the text of the regulation but not the actual ordinance wording, has been appropriate and valid.

Bruce Lankford, representing the applicant, agreed with Mr. Perkins. He stated that the cluster regulations in question have been acted upon many times over the past thirteen (13) years and have never been in question.

Mr. Smith argued that just because the regulations haven't been questioned before is not a valid reason to not question them now. Mr. Lankford maintained that if the regulations weren't adopted originally, they were adopted when they were subsequently acted upon. Mr. Perkins stated that the text was adopted that night for recommendation to the Fiscal Court, and Fiscal Court acted upon it. He felt that is more than adequate to satisfy the statutes.

Mr. Smith quoted a Jefferson County, Kentucky case in which an ordinance was determined invalid due to improper adoption. Mr. Perkins stated KRS says a Planning Commission may adopt regulations but does not preclude the Fiscal Court from doing so. Fiscal Court action makes it legal even if not adopted by the Planning Commission.

Discussion continued on the matter.

Motion by Hopkins, second by Richardson, to continue discussion this evening on the application. Motion carried unanimously.

Bruce Lankford, representing the applicant, stated that the notification sign requirement has been met.

Ms. Cromer reviewed the staff report, including issues regarding the traffic study, the stone fence, and the requested variance regarding the cul-de-sac. She recommended approval subject to twenty-one (21) conditions.

Mr. Lankford agreed with the conditions of approval.

Mr. Smith cited case law (1975 Snyder v. Owensboro) pertaining to subdivision approvals, maintaining that the application should be denied. He listed deficiencies in the plat which he felt should invalidate it. He felt that the Traffic Impact Study minimizes the impact of 990 vehicle trips per day in light of Ironworks' dangerous intersection with Etter Lane.

Mr. Tim Sorenson, Wilbur Smith Associates, reviewed their traffic study, which concluded that the traffic generated by the proposed development will be acceptable with the proper entrance improvements, moving it opposite to Etter Lane, a connection to Hamilton Lane.

Mr. Smith further discussed the application, and felt that the project will have an adverse environmental affect on the adjoining properties.

Ms. Sarah Smith, Smith Management Group, an environmental and engineering firm, gave a Powerpoint presentation, which was submitted for the record. They were asked to evaluate the property for environmental assets and suitability for development. She reviewed information on karst soils and the sinkhole system, which concluded that the geology of the property is inappropriate for residential development with septic systems. She stated that an environmental biologist accompanied her on a site visit to the adjacent property, and confirmed that there is a wetland on the east side of the property and one on the west side, connected by streams, which strongly suggests that the same conditions exist on the property proposed for development. With those conditions, the Corps of Engineers becomes involved. Ms. Smith explained the significance of groundwater flowing to North Elkhorn creek and alternatives to septic systems.

Commissioner Bradley expressed concern that denying this application on environmental grounds will end septic systems being used anywhere in southern Scott County, and felt that the negative environmental effects are being over played.

Mr. Sapp clarified with Ms. Smith that an approval by the Planning Commission with the condition that the Scott County Health Department approves septic systems on this site would constitute a legal approval. Mr. Sapp then asked Ms. Smith if five-acre tracts would be better environmentally than the same number of cluster lots. Ms. Smith said the impacts would be the same.

Chairman Brock asked about obtaining permits from the Corps of Engineers. That issue was discussed. Ms. Smith stated approval would be before construction, not necessarily preliminary subdivision approval.

Mr. Lankford asked Ms. Smith about her experience in testifying in environmental matters.

Mr. Smith stated that the preliminary evaluation done by the Scott County Health Department is not nearly as thorough as the evaluation done by Ms. Smith. He also felt that the applicant has not met the requirements for approval of the requested variance to exceed 1,000' on the cul-de-sac length, per the requirements of KRS 100.243.

He then stated that a cluster development is not compatible with the surrounding horse farms, and is not in agreement with the Comprehensive Plan policy to preserve and protect rural, agricultural, and historical assets for the benefit of the community as a whole. He noted the southern greenbelt policy which refers to the importance of prime farmland and the significant scenic area in the southern part of Scott County and the need for them to be protected. He also noted the environmental protection policies and the lack of need for more lots. He stated that the entrance design does not meet the *Subdivision and Development Regulations* or AASHTO site distance requirements, the traffic impact study does not meet informational requirements, and no evidence was shown to satisfy conditions necessary for the granting of a variance.

Mr. Sapp clarified that the entrance design does meet KYTC-District 7 site distance requirements, and that the development would not reduce the Level of Service on Ironworks Road.

Ms. Cromer stated that sinkholes, floodplains, and steep slopes are all addressed by our regulations, and those issues must be resolved before the Final Subdivision Plat approval. She stated that the required Level One traffic study and the requested variance from the *Subdivision and Development Regulations* meet the requirements necessary for approval, and all approvals for septic systems are deferred to the Health Department.

Mr. Smith argued that some of the issues need to be resolved at the Preliminary Plat stage, and that the traffic study did not meet the requirements.

Mr. Lankford asked Mr. Sapp and Ms. Cromer if they had heard any evidence that would change their recommendation on the application. Ms. Cromer replied that she would recommend that the wetland issue be investigated prior to final plat approval. Mr. Sapp replied that he had not. Mr. Lankford reviewed the issues that have been addressed according to the regulations and asked for approval.

Chris Newton, adjacent property owner, stated that the wetland area in question sits beneath his house. He expressed his opposition to the proposed development for environmental reasons. He felt that if the first 31 lots are approved, then the remaining 68 lots will follow.

Doug Byers, veterinarian and neighboring farm owner, felt that the southern greenbelt area will be gone if this development is approved. He stated that over 200 members of the Natural Resource Conservation District are interested in land preservation. He felt that Ironworks Road is adequate for additional traffic, pointing out his rock wall that has been hit three times in the past four years. He also expressed concern about water quality.

Laura Bellmore, neighboring farmowner, expressed concern about water quality and additional traffic, describing the numerous accidents that have occurred in front of her property. She listed the world class horse farms in the area.

Don Richards, neighboring property owner, expressed his opposition to developing scenic, valuable farmland.

Michael Bowen, owner of Old Friends, Thoroughbred retirement facility, also expressed his opposition to developing farmland. He stated that his horse farm has attracted over 20,000 visitors since the summer of 2006. He asked the Commission to keep in mind that what is commonplace to the residents of Scott County is viewed differently from the eyes of people who come from long distances to see what is here.

Soe-han Fuller, Yarnallton Pike resident, asked the Commission to consider what the best use is for each particular place. She stated that she drives her horse and buggy on Ironworks Road and feels that that is appreciated by tourists.

Susan Byers, Ironworks Road farmowner, asked the Commission to deny the application so that the neighbors will not have to bear the burden of the negative impacts. She submitted for the record the rural land use section of the Comprehensive Plan. She suggested enacting a moratorium. Chairman Brock pointed out only Fiscal Court can approve this and the Planning Commission can only suggest. Ms. Byers introduced an exhibit with newspaper articles concerning farmland preservation.

Angela Arnett, Ironworks Road resident, referenced two articles about disappearing farmland in the Bluegrass. She quoted Mr. McLean, Jr. in one of the articles as saying that "for a farmer, the land is a major asset, and in some regard, it is like a retirement plan." She asked the Commission to consider the larger picture and deny the application because of the irreversible effects of the loss of Bluegrass farmland.

Marie Ann Zorba, Yarnallton Pike horse farm owner, urged the Commission to not underestimate the traffic issue on Ironworks and north Yarnallton Pike, stating that it is an extremely dangerous stretch of road. She stated that three accidents have occurred in the past year.

Zachary Davis, whose parents own a farm on Lemons Mill Road, stated that his goal is to own a 500-acre farm in the area, but because the pressures of development are driving up land prices, his goal may become unobtainable. He stated that people come here to see farmland, not houses.

Charles Wickers, Scott County resident and realtor, stated that 550 single-family homes are on the market in Scott County, and this figure does not include homes for sale by independent realtors and homeowners. He stated that home sales have slowed down and there is no need for these additional proposed homes. He stated that the central Kentucky Bluegrass is on the list of the 100 most endangered sites in the world.

Ben Bellmore, Ironworks Road resident, felt that because of the alleged deficiencies in the application, which were not disputed by the applicant's attorney, there is not a legal basis to approve the proposal. Mr. Lankford replied that Ms. Cromer responded to each alleged deficiency.

Nancy Newton, adjoining farm owner, expressed concern about the wetlands being destroyed. She stated that she has preserved the wetlands on her property and made riding trails through it, and that wildlife is abundant in it.

Sharon Straitiff, Scott County resident, expressed concern about the loss of farmland, and the finding that growth does not pay for itself in terms of services provided.

Bob Brady, owner of Kentuckiana Farm, stated that he gives 20-30 tours of his farm per year, and the comment from tourists is always how beautiful the land and farms are here.

Mr. Sapp noted that Mr. Brady has approval for a cluster development on his farm. It was replied that his cluster development is off Lexington Road and not visible from the road. Ms. Newton stated her opinion that staff should not defend applications. Chairman Brock stated it is appropriate.

Commissioner Bradley stated that as a Planning Commissioner, he cannot deny proposals that he personally does not like, that he must follow the laws and regulations of the State and County. Mr. Smith replied that a number of reasons have been given to justify denial. Whether County site distance requirements apply to State roads was discussed. Commissioner Bradley disagreed that the Planning Commission had control over decisions on State roads. Mr. Smith said our regulations allow the Planning Commission to regulate. Commissioner Bradley questioned whether or not the opposition present at this hearing were as involved during the recent Comprehensive Plan process.

Carolyn Oldfield, Natural Resource Conservation District, stated that many of the people at this meeting were at the Comprehensive Plan meeting on preservation.

Mr. Lankford stated that the applicant is a part of the horse industry just like many of the people at this meeting. He rhetorically asked where the opponents were when many other cluster developments were approved. He asked the Commission to approve the applicant because it complies with the regulations.

Mr. Smith gave several reasons to deny the application: 1) Ironworks Road is not adequate to handle additional traffic; 2) there is a high probability that a wetland exists on the property; 3) the application was deficient; and 4) no evidence was shown that the conditions were met to grant the variance. He asked the Commission to deny the application.

Motion by Richardson, second by Lacy, to approve the Preliminary Subdivision Plat, including the requested variance, subject to the twenty-one (21) conditions of approval, based on staff recommendations and staff findings of fact. By roll call vote, motion carried 4-3, with Hopkins, Tackett, and Hampton dissenting.

PSP-2007-04 Juett Property Amended Cluster Subdivision – Preliminary Subdivision Plat for fourteen (14) cluster residential lots, two 25-acre preserved tracts, one non-buildable tract (for shared lagoon septic system), and one 35-acre tract (removed from previous cluster development proposal) on 117.2 acres zoned A-1, located on the south side of Rogers Gap Road and west side of Highview Path.

Ms. Cromer reviewed the staff report, including issues regarding the adjacent RV campground, access, the requested variance, and the landscape buffer. She recommended approval of both the variance and Preliminary Subdivision Plat.

Pat Juett, applicant, agreed with the conditions of approval.

Commissioner Lacy confirmed that the tract for the lagoon is not part of the preserved acreage.

Motion by Hopkins, second by Bradley, to approve the Preliminary Subdivision Plat, including the requested variance, subject to the eighteen (18) condition of approval. Motion carried.

PSP-2007-17 Frogtown Road Subdivision – Preliminary Subdivision Plat for five single-family detached residential lots on 49.447 acres, located between Leaning Oak Road and Frogtown Road, approximately five miles northwest of Sadieville and two miles north of the community of Porter.

Mr. Ardary reviewed the staff report, including the issue of road improvements. Staff recommended denial of the request to waive road improvements because financial hardship does not justify the granting of a variance. Staff recommended approval of the Preliminary Subdivision Plat subject to eight (8) conditions of approval.

Pat Darnell, representing the applicant, noted that Tract 5 will be labeled non-buildable, so that there are actually on four (4) buildable lots. He stated that the applicant can clear trees to improve the site distance for the two new entrances. He felt that the steep

slopes along the road and the low impact to the traffic volume in that area justify the variance.

Darrell Shelf stated that only one additional entrance is needed, that being on Tract 1. He stated that the area is fairly remote, with very little traffic.

Motion by Lacy, second by Holland, to approve the Preliminary Subdivision Plat, including the requested variance to waive road improvements, subject to the eight (8) conditions of approval. Motion carried 7-1 with Hopkins dissenting.

FSP-2007-18 Lynn Street Residential – Final Subdivision Plat to reconfigure five (5) existing lots into four (4) new lots, located on the north side of Lynn Street at intersection with Booker T. Avenue.

Ms. Cromer reviewed the staff report, including the requested variances regarding lot size and setbacks. She stated that other non-profit organizations have received approval for similar sized lots and similar variance requests, and that the lots will be compatible with the character of the neighborhood.

Jason Hale, CDP Engineers and representing the applicant, agreed with the conditions of approval.

Delores Vinegar asked about the applicant's future plans.

Mr. Hale noted that the homes will be two-story and have driveways to provide off-street parking.

Ed Jenkins, area resident, asked Mr. Hale about the applicant's future plans.

Mary Nickels, area resident, expressed concern about adjacent City-owned property and its maintenance.

Motion by Gregory, second by Hampton, to approve the Final Subdivision Plat, including the requested variances, subject to the four (4) conditions of approval. Motion carried.

PDP-2007-01 Brown Property Townhomes – Preliminary Development Plan for 10 townhouses in three buildings on 1.1 acres, located on Royal Spring Avenue, which is approximately 1000' south of West Main Street.

Mr. Ardary reviewed the staff report, stating that the revised plan shows Units 1 and 2 located completely in the R-2 portion of the property. He supported the requested variance to increase the number of units from 6 to 8 in one building as it is in agreement with the *Zoning Ordinance*.

Commissioner Richardson asked about stormwater management. Brent Combs, Thoroughbred Engineering and representing the applicant, reviewed the stormwater plan. He stated volume of water to sinkhole will not increase. Volume of water to Ely alley will not increase. The remainder of the site will drain to underground storage and discharge to GMWSS property to Clinton Street.

Nathan Brown, applicant, stated that they were working with the Fire Department on the emergency access issue. He agreed with the fifteen (15) conditions of approval.

Susan Craft, West College Street resident, felt that developing ten units on the property is excessive in an older, established neighborhood. She was concerned with the cost to widen and find parking on Royal Springs. She also had concerns with the variance. She asked the Commission to consider the appropriateness of the development, not just whether it meets the regulations.

Marian DeCamp, S. Royal Springs Ave. resident, expressed her opposition to the application because of traffic, on-street parking, and the lack of places for children to play.

Kay Snyder, Rucker Ave. resident, expressed her opposition to townhouses in the area and felt that property values will decrease in the area. She expressed concern about emergency access, parking, and increased traffic.

Two other Royal Spring Ave. residents expressed concern about emergency access and children at play.

Steven Glass, City Council member representing himself, asked the Commission to postpone the matter until they have assurances that the proposed development will not contribute to the existing stormwater drainage problem in the area. He pointed out City projects for drainage and current budget issues. He also stated concern over traffic and fire safety.

Mark Singer, City Council member representing himself, agreed with Mr. Glass about the stormwater problem and added that, because there are no apartments or townhouses in the area, the Commission should consider compatibility and appropriateness for the area. He stated that the zoning was not appropriate. He suggested postponement for drainage review.

Commissioner Richardson asked Mr. Krebs if the drainage plan was OK. Mr. Krebs responded that the preliminary plan would probably work.

A resident asked if the concept of R-2 was different at the time this property was zoned R-2.

Mr. Brown noted that the tract could potentially accommodate thirteen units, but they are only developing ten. He stated that children can play on the adjacent empty lot that he sold to Mr. Steve Price, a neighbor who has no plans to develop it. He also stated that the drainage and emergency access issues will be addressed before final approval can be given.

Susan Craft stated that most of the area residents have yards where their children can play.

Ms. Snyder, area resident, stated that Mr. Price's empty lot will not be a suitable place for children to play.

Mr. Combs noted that the depressed area on the lot can be used for recreation purposes. He added that the Fire Department indicated that 18' of clear passage on Royal Springs Ave. would allow them to get their emergency vehicles to the site. Mr. Brown stated that he may widen the street at no cost to the City to provide that 18'. He stated that the units are one-story, handicap accessible, and sold to individual owners, not rented.

The appearance of the units was discussed. Susan Craft asked if units will be pre-fabricated units. Mr. Brown said maybe, but site access may prohibit it. Ms. Snyder stated she was unwilling to donate right-of-way for widening.

Ms. DeCamp felt that the on-street parking situation is an existing problem which will be made worse. She also stated widening will cause the loss of trees and green space.

Sam Rock, co-applicant, stated that the problems of stormwater and parking will be resolved before a final development plan can be approved.

Mr. Singer felt that having to limit parking to one side of the street, or having to widen the street to accommodate the development suggests that the zoning is inappropriate.

Mr. Combs disagreed with Mr. Singer in that emergency access is an existing problem, not one that will be caused by the proposed development.

Commissioner Richardson expressed concern about the stormwater drainage plan not being already approved by Mr. Krebs.

Motion by Richardson, second by Bradley, to postpone the application until the Planning Commission Engineer has reviewed and approved the stormwater drainage plan. Motion carried.

PDP-2007-11 Whispering Hills RV Campground – Preliminary Development Plan for 233 RV campsites on 35.53 acres zoned A-1, located on the south side of Rogers Gap Road, east of I-75 and west side of Highview Path.

Motion by Richardson, second by Holland, to postpone the matter until the City Council has taken action on the sewer issue.

Pat Juett, applicant, stated that two other sewer systems are available to him for the development. He asked that the Commission hear the application before he may need to pursue those alternatives.

The above motion carried 7-1 with Bradley dissenting.

Cluster Ordinance revisions

**Motion by Richardson, second by Gregory, to postpone the Cluster Ordinance revisions until the June meeting to give the Commission time to review them.
Motion carried 7-1 with Lacy dissenting.**


The meeting was then adjourned.

Respectfully,



Barry Brock, Chairperson

Attest:



Charlie Perkins, Secretary