

**GEORGETOWN-SCOTT COUNTY PLANNING COMMISSION  
SPECIAL MEETING  
MINUTES  
November 12, 2020**

The special meeting was held online via Zoom on November 12, 2020. The meeting was called to order by Chairman Mark Sulski at 6:00 p.m. Present were Commissioners James Stone, Charlie Mifflin, Steve Smith, Mary Singer, Regina Mizell and David Vest, Director Joe Kane, Planner Matt Summers, Engineer Ben Krebs, and Attorney Charlie Perkins. Absent were Commissioners Byron Moran and Duwan Garrett.

Motion by Mizell, second by Smith, to approve the October invoices. Motion carried.

Motion by Vest, second by Mizell, to approve the October 8, 2020 minutes. Motion carried.

Motion by Vest, second by Smith, to approve the November agenda. Motion carried.

All those intending to speak before the Commission were sworn in by Mr. Perkins individually prior to their comments and questions.

Postponements/Withdrawals

Chairman Sulski stated that the application for The Villages at Falls Creek Amended Master Plan (PDP-2020-41) has been postponed until the next regularly scheduled meeting.

Kathleen Zazycki stated her concern that she did not receive notification of the application.

Consent Agenda

A representative of the Snowball Trust Tracts 6 & 7 application (FSP-2020-42) agreed with their conditions of approval, and no comments were made by the Commission or Public. Motion by Smith, second by Mizell, to approve the application. Motion carried.

PSP-2020-43 Harbor Village Phase 4 – Preliminary Subdivision Plat for Harbor Village Phase 4 located west side of US 25 (Cincinnati Pike) at Rogers Gap Road.

Mr. Kane stated this application is for 87 lots. He stated the Concept Plan and Zone change was approved in 1988. He stated that Mallard Point and Harbor Village originally had the same developer.

He stated the concept plan has been amended several times and originally showed three lakes. He stated in Phase 1 the current lake was constructed. He reviewed the history of the subdivision and its multiple amendments. He stated in 2019 Phase 3 was approved and Phase 4 was continued until a second road connection to Mallard Point was available.

He stated there are three issues that do not meet current regulations, the block length, the width and profile of the road, and the number of lots with only one entrance. He stated staff recommends denial unless the road connection to Drake Lane is a full width paved entrance.

Mr. Perkins requested clarification on the recommendations. Mr. Kane stated if the second entrance is for emergency only, staff recommends denial but if the second entrance meets current standards, staff recommends approval.

Chairman Sulski stated he understood the recommendations differently. Mr. Kane stated if there is no second entrance, the recommendation is denial. He stated if a waiver for an emergency only second entrance is granted, he requests that a justification is stated for the record and that the conditions state the emergency entrance construction details.

Nathan Billings, attorney for the applicant, gave a brief review of the history of Harbor Village. He stated the Amended Master Plan submitted in 2019 had minor changes. He stated the proposed connection to Mallard Point for Phase 4 has shifted east. He stated otherwise the plan was basically the same as presented last year.

He stated the developer is not seeking approval of 119 lots previously in concept, and instead is asking for approval of 87 lots.

He stated a permanent road connection is not practical since a right-of-way was never required on plats for Mallard Point. He stated applicant does agree to suggested variances from staff recommendations. He stated that he does have an approval letter from the County Fire Department for an emergency use only road connection.

He stated that making Phase 3 and 4 part of the existing Homeowner's Association might require the HOA to change some of their rules. He asked that instead the Planning Commission require HOA documents that cover the ownership and maintenance of all common areas.

He stated during the time the applicant was seeking Phase 3 approval last year a neighboring property was transferring a parcel to their sons that eliminated a possible connection between the subdivisions.

He stated the 2012 proposed Master Plan did not show a connection between the subdivisions but a record of approval or disapproval could not be found for the 2012 Master Plan either way.

He stated Tract 1 of the Wilhoite property approved last year has a major elevation change to Drake Lane that would prohibit a road connection. He stated Parcel 2 created a 35' private access easement to Drake Lane and left Harbor Village without an available connection to Mallard Point. He stated there are ongoing negotiations with the Wilhoite family to be able to use that private access easement for emergency use only. He quoted the Subdivision Regulations, that state the requirement of a second entrance if over 200 lots, if physically feasible. He stated that in this situation, it is not physically possible to have a second public road entrance.

Mr. Wilhoite stated he has been in discussion with Flying Dutchman Properties. He stated he had questions about the road requirement and if he could have assurance that it would remain emergency only in the future.

Mr. Kane stated for an emergency access to change to a public street, it would have to be approved by the Planning Commission. Mr. Perkins stated that the Wilhoite's would also have to agree to change the access.

Mr. Wilhoite questioned if the County could change the access in the future. Mr. Perkins said it not likely to happen but that the County could if it was deemed necessary.

Mr. Wilhoite stated that he has discussed paving his driveway with Mallard Point Homeowner's Association and once construction is complete it will be paved.

Chairman Sulski questioned Mr. Wilhoite if a road between the subdivisions could be possible. He stated the road would be close to his house.

John Talbot stated he is with Bruce Kohnz, President of Mallard Point HOA, and Mark Smith, the original developer of both subdivisions and Director of Mallard Point HOA.

Mr. Talbot questioned if Scott County Fire Department was aware the emergency access would be shared with two driveways. Mr. Billings stated that the engineer Daniel Rehner of Thoroughbred Engineering handled the discussion. Mr. Rehner stated that he presented the same exhibit to the Fire Department that the Planning Commission is seeing and stated that the Fire Department did look at the property.

Mr. Talbot stated that these two subdivisions are entirely separate. He stated that homeowners do not want a connection between the subdivisions and have concerns if they were to be connected.

Mark Smith stated the original master plan showed what he thought the subdivisions might eventually look like. He stated the connection shown between the two subdivisions was because he owned both properties at that time. He stated if both properties were connected there would have been a gate between them.

He stated Mallard Point having one entrance with a gate allows them to see who has been there if a problem ever arose. He stated both subdivisions have never had an event happen where another entrance was needed.

He stated the HOA has a concern about the watershed if Harbor Village was connected to Mallard Point. He stated if a connection is approved the HOA requests an environmental impact study to be done.

He stated during the different property owner changes, a requirement was not made to any of the developers that both subdivisions had to be attached.

Bruce Kohnz stated that if he is understanding correctly a connection between the subdivisions was never approved only suggested on a concept plan. He stated he has concern that a connection could interfere with the subdivision security or would turn into a full street.

He stated he had concern with Harbor Village connecting to Mallard Point's sewer system.

Mr. Billings stated he can create a private access easement only for emergency use.

Dan Kahl, Mallard Point resident, stated he had concern about the impact on the watershed if the subdivisions connect.

Gary Hobbs, Harbor Village resident, questioned who would maintain the gate if installed. Mr. Billings stated that they propose the HOA would maintain the gate and signage.

Mr. Hobbs had questions about the HOA for the new phase of Harbor Village. Mr. Billings read from the original HOA covenants that stated the original developer must own property in the new phase for that phase to have the same HOA. He stated to submit property to that HOA would require the document to be amended. Mr. Billings stated that he could draft restrictions for a new HOA to be established.

Brad Olson, Harbor Village resident, stated that his question about the HOA was answered by Mr. Hobbs question. He stated that creating another HOA would seem like two separate subdivisions beside each other. He stated he would like to talk to the HOA about how both HOA's could be merged into one.

Mr. Kohnz stated he feels trespassing would be hard to control if the access existed.

Mr. Rehner stated approximately 2 acres would drain towards Mallard Point, but the impact would be minimal. He stated the applicant would have to meet all the requirements of the stormwater regulations for Georgetown-Scott County.

Rhea Compton, Harbor Village HOA Secretary, stated they have asked the applicant to join their HOA. She stated they are trying to update their bylaws and are willing to work with the applicant.

Mr. Billings stated he was not aware that the HOA had tried to contact him recently. He stated he had never been informed that the HOA was willing to spend the money to get signatures of homeowners in order to update the bylaws.

Ms. Compton stated that there has been a miscommunication between everyone concerning the HOA's.

Chairman Sulski questioned which phases are part of the original HOA and which phases would be part of the new HOA. Mr. Billings stated Phase 1 and Phase 2 are part of the original HOA and Phase 3 and 4 would be part of the new HOA.

Mr. Talbot stated that Mallard Point HOA hopes that if the application is approved, they wish it is without a connection. He stated if the application is approved, they would like a drainage study completed.

Commissioner Mifflin questioned how the HOA was handled for Mallard Point as new developers have built there. Mr. Talbot said an amendment to the bylaws was added.

Mr. Billings reintegrated again the applicant is willing to work with the existing HOA.

Scott Romano, Harbor Village resident, stated it would take 51% of the homeowners to change Harbor Village's HOA bylaws.

He questioned if there is another way to get an access easement for Harbor Village and possibly connecting to the bypass. Mr. Billings stated because of the earlier concept plan and discussions with the Planning Commission, they have not looked at other property for an access easement. He stated another road would be longer, harder to obtain and would not provide benefit to both subdivisions.

Mr. Rehner stated connecting to the bypass would be 4000 foot to 5000 foot road compared to 300 foot to connect to Drake Lane.

Chairman Sulski questioned if the applicant is willing to do a stormwater study.

Commissioner Mifflin stated if Mr. Smith still owned both properties, he does not think stormwater would be an issue nor any of the other concerns.

Chairman Sulski stated he feels the application would meet the stormwater requirements.

Commissioner Smith and Chairman Sulski questioned what an emergency gate would look like.

Commissioner Mifflin questioned what a previously approved emergency gate for Toyota Tsusho looks like.

Commissioners questioned if the road has ever been shut down. Mr. Smith stated once Mallard Point Drive had work done but one lane at a time was shut down.

Chairman Sulski questioned earlier that someone stated that the notification link into the Zoom meeting did not work. Mr. Billings stated that the link on the website did work.

Mrs. Lewis, president of Harbor Village HOA, stated that she has texted and emailed any board meeting change.

Mr. Kahl stated that he emailed the link that did not work to the Planning Commission. Mr. Rehner stated he checked the link and it did work for him.

Mr. Wilhoite questioned what an emergency access is. Mr. Kane stated for emergency vehicle use only.

Mrs. Lewis stated again that notifications were given for board meeting changes.

Commissioner Smith questioned the sewer connection to Mallard Point. Mr. Kane stated that he had put in his staff report the sewage would be going to Mallard Point Disposal System.

Mr. Kuhn stated that his question about the sewer was not answered. Mr. Smith stated that he would assume some would go to the pump station in Harbor Village and some to Drake Lane in Mallard Point. Mr. Billings stated that for preliminary plat approval all the technical details do not have to be completed. Mr. Rehner stated that the design is not finalized, but GMWSS would have to approve the plans and grant them

availability before the next step. Mr. Billings stated that the applicant is not seeking sewer access through the Wilhoite property.

Mr. Kahl questioned a sentence in the staff report regarding transmitting sewage into the Mallard Point system. Mr. Rehner stated that the design is not complete yet for the sewage.

Commissioner Mifflin questioned the second condition of approval regarding an emergency access and requiring it to be paved. Mr. Kane stated that the hard surface should go all the way to Drake Lane and be able to support fire truck use.

Commissioner Mifflin questioned who is responsible for the construction of the driveway. Mr. Billings stated it would be the applicant's responsibility to acquire the easement and to maintain it.

Commissioner Smith questioned if there is an emergency second access to Mallard Point currently. Mr. Smith stated there is no other roadway.

Commissioner Mifflin stated he thought someone had stated there is an emergency access road. Mr. Smith stated there is a private driveway that goes thru his property.

Mr. Kuhn stated that he thinks trespassing will occur with an emergency access.

Mr. Billings stated that during negotiations the possibility of the applicant paving the Wilhoite's driveway as compensation had been discussed. He stated that the applicant and the Wilhoite's can agree upon an access easement without Mallard Point's approval.

Mr. Kane stated that there are no fencing requirements between residentially zoned properties. He stated that the zoning ordinance prohibits an access easement serving more than three lots. Mr. Perkins stated that the access easement could not be public unless it met county road standards.

Commissioner Smith stated that he feels an emergency access hopefully would never be used but would be good to have if needed.

Chairman Sulski questioned the density of the other three phases of Harbor Village. Mr. Billings stated that the density is less than what was originally proposed.

The type of emergency gate was discussed again. Mr. Billings stated that he has done these before in other developments. He stated one was a mechanical gate that used a code to access and the other was a farm type gate. Commissioner Vest stated the gate can be whatever the individual prefers.

After further discussion, **Motion by Mifflin, second by Stone, to approve the Preliminary Subdivision Plat (FSP-2020-42) subject to twelve (12) conditions of approval, three (3) variances and the deletion of the second sentence of condition (6) six. Motion carried.**

Kentucky Model Solar Zoning Ordinance

Mr. Summers stated last month they discussed the model ordinance and he was asked to see what setbacks other communities have. He stated Winchester and Owensboro both use the setbacks listed in the model ordinance. He stated Bowling Green has applied 1000 feet from property boundaries and 2000 feet from residences, schools, and hospitals. He stated these are the same setbacks the state has for the same type of facilities.

He stated in his research he found Virginia's model ordinance used local government's requirements for the zoning district.

He stated he found a Minnesota non-profit model ordinance required 150 feet setback from residences and 150 or 100 feet from the centerline of state or local roads.

He stated he thought requiring setbacks like Winchester or Owensboro would be most appropriate.

Commissioner Mifflin questioned the setbacks when two participating landowners share a property line. Mr. Summers stated for large solar farms they may have multiple farm owners and would not need a setback.

He stated he would prepare a model ordinance using the Kentucky Resource Council's model to present at the next meeting with the hope of having a public hearing at the January meeting.

Commissioner Vest stated he thinks 150 to 200 foot would be more appropriate. Mr. Summer stated he will try to prepare an exhibit showing what a 50, 100, and 150 feet setback would look like.

He stated landscaping buffers should help conceal the solar farms from surrounding neighbors.

The meeting was then adjourned.

Attest:

  
Charlie Perkins, Secretary

  
Mark Sulski, Chairman