



DATE:	September 17, 2012
APPROVED BY:	Russell Schaedlich, Secretary

**MINUTES OF THE  
LAKE COUNTY PLANNING COMMISSION  
August 28, 2012**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Hausch called the meeting to order at 5:00 p.m.

**ROLL CALL**

The following members were present: Messrs. Adams, Brotzman, Pegoraro (Alt. for Troy), Schaedlich, Terriaco (alt. for Morse), Welch (Alt. for Aufuldish), Zondag, and Mmes. Hausch and Pesec. Staff present: Messrs. Radachy, and Ms. Truesdell.

**MINUTES**

Mr. Schaedlich moved and Mr. Welch seconded the motion to approve the July 2012 minutes.

Seven voted "Aye".  
Two abstained.

**FINANCIAL REPORT**

Mr. Welch moved and Mr. Zondag seconded the motion to approve the July 2012 Financial Report.

Seven voted "Aye".  
Two abstained.

**PUBLIC COMMENT**

There was no comment from the public.

**LEGAL REPORT**

Ms. Nina Lucci, Assistant Prosecuting Attorney, said that Mr. Josh Horacek said there were no updates on Kimball Estates because George Hadden is on vacation.

## DIRECTOR'S REPORT

### Planning and Community Development Office

Mr. Radachy said that the Memorandum of Understanding with the Planning Commission will be on the agenda at the August 30<sup>th</sup> Commissioner's meeting. We will become known as the Lake County Office of Planning and Community Development. As of Tuesday, September 4, 2012, the Planning Commission staff and the Community Grants Department will be transferred by means of resolution from the Planning Commission board to the Office of Planning and Community Development and will be directly under the Commissioners. Mr. Radachy was named Interim Director of the Planning Commission Department and Mr. Boyd is now County Administrator. Rhea Benton will be hired at the same meeting by means of resolution. She was at the Economic Development Department of Geauga County, and will be the Community Development Block Grant Manager.

Staff has been assisting the Treasurer's Office with the *Moving Ohio Forward Grant* from the Ohio Attorney General's Office. This came from settlement money from the banks involved in the foreclosure crisis. Twenty (20) of the 23 communities have applied for money to demolish uninhabitable homes. The first phase will provide \$500,000 and will be used to demolish the first group of houses. Another \$750,000 will be available in matching funds in another phase.

We are now assisting Madison Township and Fairport Harbor in writing their zoning text.

### ANNOUNCEMENT

Soil and Water Conservation District will be holding their annual meeting and report to the community on September 13<sup>th</sup> at Holden Arboretum. The Ohio Planning Conference Cleveland Section will hold a zoning workshop on November 16<sup>th</sup>. Medina County will hold a conference on *How to Enforce Your Zoning Code* on December 6<sup>th</sup>.

### SUBDIVISION REVIEW

#### Concord Township – Request for Final Plat Extension for Summerwood Phase 3 & Phase 4

This is the third request from Mr. Riebe to apply for Final Plat Extensions. He was granted two one-year extensions, one in 2010 and one in 2011. The approval expired on August 31st. The general consensus of the Board with respect to the current Subdivision Regulations was that two extensions were allowed. The Commissioners have not had a public hearing to adopt the revised subdivision regulations. However, they were passed by the Planning Commission as changes to the regulations, saying that in the future, any subdivision that gets approved and wants an extension, gets a one year extension and the maximum allowed are two one-year extensions. The changes have not been adopted by the Commissioners. That is the direction the Planning Commission wants to go.

Mr. Pegoraro said that for a developer to incur additional fees does not do anyone any good whatsoever. It is best to work with the developer, giving him the additional year or so. Failed developments deter other developers from coming into the area.

Mr. Adams said that we need to meet with developers. However, this is not our policy to go with two (2) as maximum and developers cannot plan for just two (2) extensions, especially in this kind of economy. If they were counting on another extension, and they don't get it, and there are financial

repercussions, then we have not done them any favors. We are supposed to be looking out for the people and the developers. His recommendation would be to grant a one-year extension and by that time, the Subdivision Regulations would have been approved.

Mr. Radachy said that some of the regulations are not retroactive.

Ms. Pesec said our rule has been two extensions. It is the reason we put the regulation in place. If we make an extension the third year, but we submitted regulations that would be binding for only two years, there is an inconsistency.

Mr. Pegoraro said there are mitigating circumstances in this economy. He asked Ms. Lucci what would happen if the Commission were to deny this extension, is there an appeal process?

Ms. Lucci said she would have to defer that answer to Mr. Horacek.

Mr. Radachy said the approval would be voided and the plat would have to be resubmitted and then ask for approval for another two years. The developer would have to incur the cost of the fee for resubmission.

Mr. Pegoraro asked if it would be just as easy to include any upgrades to any zoning codes.

Joe Gutoskey, representative for the developer, Mr. Riebe, said that he would like to start putting in the longer cul-de-sac in Phase 4 this fall and extending the shorter cul-de-sac in Phase 3. He has seen interest from buyers.

Mr. Radachy said that he currently does not have improved plans and specs. His improvement plans have not been accepted by the Commissioners. Without those, he cannot submit a construction surety and without that he cannot record the plat.

Mr. Gutoskey said that it was approved four years ago and the economy went downhill.

Except for stipulations, the approval from the Commissioners is ready to go.

Ms. Pesec said he is creating his own hardship by not having done this for four years.

Mr. Gutoskey said it was because they had the lots in Summerwood Phase 1 and 2 and in Crossroads. There are still lots in Crossroads.

Mr. Brotzman said the inaction is that he has not submitted the improvement plans.

Mr. Gutoskey said there are no markets for selling the lots. Is there anything in the current subdivision regulations that limit the extensions, up to two one-year extensions?

Ms. Pesec said right, there is nothing. Is there anything in the current subdivision regulations that says we need to provide extensions?

Mr. Radachy said no.

Mr. Zondag confirmed that this was the third one-year extension being requested.

Mr. Radachy said there were no specifications; it can be six months.

Mr. Radachy quoted the subdivision regulations, "Any plat not recorded within two years or within any approved extension period approved by the Planning Commission, approval shall expire."

Ms. Pesec said so when they started the project, they anticipated that it would only be two years.

Mr. Radachy said yes.

Ms. Pesec said we have now granted two one-year extensions on top of what the regulations say should expire.

Mr. Radachy said one of the reasons why we added the expiration on preliminary and final plats is to clean up the files. Developers were doing the engineering work, discovering it would not work, and abandoning the project. The point of the improvement plans is to see to it that developers follow the rules.

Mr. Zondag asked about the lots left in Crossroads.

Mr. Gutoskey said there are still some lots that won't sell because they are not that desirable.

Mr. Brotzman said in better times, if it is not developed within the two extensions, it is not going to happen at all. This is a tougher time. If he had a good feeling that Phase 4 would get underway, he would willingly look at extending it up to a few months. Also, with Phase 3, he would be in favor of this particular extension. He asked for discussion if a shorter period of time for Phase 4 was reasonable too.

Mr. Gutoskey said that would give them the chance get the approvals and start the project.

Mr. Pegoraro moved for a four-month extension on Phase 4 and a one-year extension on Phase 3.

Mr. Adams seconded the motion.

Ms. Hausch asked for discussion.

Mr. Pegoraro said it was reasonable to look at the end of the year as a timeline.

Mr. Zondag said he was aware that this was setting precedence.

Mr. Zondag moved to amend the motion to add language that by the end of this period of time, if there are further requirements to extend, that Mr. Riebe come back with explanations, so that we can justify our options.

Mr. Brotzman suggested that any new updates to the subdivision regulations that are enacted be included in the amendment.

Ms. Pesec said part of the amendment would require that any new subdivision regulations would apply.

Mr. Radachy said the amendment to the original reads as follows, "Mr. Zondag amended the motion to say that at the end of the period of time required for the extension, Mr. Riebe will be required to appear before the Board with explanations at that point. Also, any changes that occurred currently, or in the future, would have to adhere to any new updated subdivision regulation changes.

Ms. Hausch asked if everyone understood the motion. The first vote is on the amendment.

All voted "Aye".

The original motion from Mr. Pegoraro was for a four-month extension on Phase 4 and a one-year extension on Phase 3. Mr. Adams had seconded the motion.

Eight voted "Aye".  
One opposed.

### Subdivision Activity Report

Mr. Radachy said the developer is scheduling his pre-construction conference for Mountainside Farms Phase 4. Originally, in part of Phase 4, there was an 11-lot subdivision coming out of Karaboo Drive. That was removed in 2008 when he resubmitted this plat. He will be required to submit his plat along with the improvement plans.

### LAND USE AND ZONING REVIEW

#### Concord Township Proposed District Amendment, 1.8795 Acres, From B-1, Restricted Retail District to R-3, Multi-Family District

Mr. Radachy said the property is off Route 84, South of St. Gabriel's Church, north of Concord Plaza, on the west side of the road. Currently, STJS Investments is requesting a change of 1.88 acres from B-1, Restricted Retail to R-3, Multi-family District for single detached cluster dwellings.

Land Use and Zoning recommended the district change. They felt it met the 2004 Concord Township goal and objective that there should be smaller scale senior housing, cluster housing, and attached housing in areas where sanitary sewer and water exist near retail and transportation systems.

The property owner who developed Gabriel's Edge Condominiums, also known as Prescott Mill Condominiums, then asked for a text amendment that allowed for detached units to be built. Staff showed the Commission how the property started developing as single-family detached condos.

Mr. Radachy said that the parcel to the east of the site was once Borlan's Nursery and Flower Shop. The property has now been developed as a bank. The property does not have good visibility and it would be difficult to develop as retail. An office use may be more feasible. Staff also stated that Concord Township requires a 50-foot buffer between residential uses and commercial uses.

The Comprehensive Plan recommended the following:

1. There should be smaller scale senior housing, cluster housing, and attached housing in areas where sanitary sewer and water exist near retail and transportation systems.
2. The comprehensive plan also recommends “supporting targeted economic development in commercial areas designated by the Township and maintaining the 8% commercial and 92% residential mix that exists in Concord Township.

Staff made a recommendation that the district change be made based on the goal and objective of adding smaller scale senior housing, cluster housing and attached housing in areas where sanitary sewer exists and located near retail and transportation. This area only lacks the transportation requirement.

Mr. Radachy said that it would be required to have a 50-foot buffer plus the front and side setback and this might make it not buildable.

Mr. Rick Summers said the current plan is that the existing R-3 will be built as stand-alone cluster housing. The Fire Department is asking that a road on an easement be preserved next to the bank and loop around for ingress and egress. The intention is to develop it as an R-3 for stand-alone homes. It appears there could only be 8 or 9 units on the 1.9 acres.

Ms. Pesec asked what it would look like if it were developed as commercial with setbacks.

Mr. Radachy said there is a survey showing there could be between 70 and 100 feet lost, which would leave a lot size with 130 feet width.

Mr. Radachy said side and rear setbacks would be 30 feet for commercial lots.

Mr. Summers said that would put the building in the center of the property and would impede providing ingress and egress. Mr. Summers said this would become one development. The market would dictate what would be built. The wetland study has been done and there are no wetlands. At this point there are no cul-de-sacs.

Minimum distance between single story detached cluster homes can be 10 feet; one and one-half units would be 12 feet; for a two story unit, 15 feet must be between units.

Mr. Schaedlich moved that we accept the recommendation of the Land Use and Zoning Committee and staff and recommend approval of the Proposed District Amendment, 1.8795 Acres from B-1, Restricted Retail District to R-3, Multi-Family District in Concord Township. Mr. Pegoraro seconded the motion.

All voted “Aye”.

Painesville Township Proposed Text Amendments - Add Section XXXVI, Small Wind Turbine Projects  
Painesville Township Proposed Text Amendments Section 32.19, Zoning Permits

Mr. Radachy said that ORC confers on a township the right to adopt rules or regulations for small wind turbines under 5 megawatts. Madison Township and Leroy Township added regulations for small wind farms. There are also issues with the regulations. There is no indication if this is to be allowed as a permitted use or accessory use. The changes do not state in which districts they are

allowed. There are no setbacks from other overhead wires such as cable, electric, telephone, etc. There are no requirements prohibiting signs from the towers and limiting light shining on adjacent properties.

Staff stated the issue with the last case was the Township changed a section number and did not change the language that referred that section to the new number.

The Land Use and Zoning Committee discussed that while the noise is at a lower level, it would be constant. Staff stated that the noise would not be able to enter into the homes and the Committee stated then the homeowner loses the use of their decks, patios, etc.

Land Use and Zoning Committee recommended the text amendments to be accepted with the following suggestions:

1. List the districts in which this is allowable or add this as an accessory use to the districts that you wish to allow this use.
2. There should be a setback from overhead utility lines or wires such as, but not limited to, high tension electrical wires, cables, and telephones.
3. Add language prohibiting signs being allowed on the tower. The Township should allow for owner identification signs and warning signs, but they should limit their size and location.
4. Add language to limit the amount of lighting that can trespass onto the neighboring properties.

Mr. Radachy suggested that Painesville Township be aware that they must comply with the Federal Aviation Administration regarding warning lights on the turbine.

Mr. Schaedlich moved and Mr. Zondag seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommend approval of the proposed text amendments, adding Section XXXVI, Small Wind Turbine Projects, and to recommend approval of the changes to the proposed text amendments Section 32.19, Zoning Permits.

All voted "Aye".

#### REPORTS OF SPECIAL COMMITTEES

The Coastal Plan Committee meeting was postponed until Wednesday, September 26, 2012.

#### CORRESPONDENCE

There was no correspondence.

#### OLD BUSINESS

There was no old business.

## NEW BUSINESS

### Bylaws Review

Mr. Radachy said that the Board and Mr. Boyd recommended that we establish a committee to review the Bylaws. The following volunteered to be on the Bylaws Review Committee: Ms. Hausch, Mr. Schaedlich, Ms. Pesech, Mr. Zondag, and Mr. Pegoraro.

## PUBLIC COMMENT

There was no comment from the public.

## ADJOURNMENT

Mr. Zondag moved and Mr. Brotzman seconded the motion to adjourn the meeting.

All voted "Aye".

The meeting adjourned at 6:20 p.m.