



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

PETITIONERS:

Jim Bostwick

William Carter

Jim and Arlette Gray

CICERO/JACKSON TOWNSHIP PLAN COMMISSION

MINUTES

06/12/13

President Dan Strong called the May Session of the Cicero/Jackson Township Plan Commission meeting to order at 7:00 pm.

The members of the C/JT Plan Commission were present or absent as follows:

PRESENT: Dan Strong-President
Stephen Zell- Vice President
Mark Thomas-Secretary
Eric Hayden
David Martin
Dennis Schrupf
Tim Fonderoli
Christopher Lutz
Aaron Culp-Legal Counsel
Kelly Gunn-Recording Secretary
Paul Munoz-Plan Director

ABSENT: Paul Vondersaar

1. DECLARATION OF QUORUM:

President Dan Strong declared a quorum with 8 of 9 members.

2. APPROVAL OF MINUTES:

President Dan Strong entertained a motion to approve the meeting minutes from 05/15/13. Stephen Zell made a motion to approve the meeting minutes as submitted and Tim Fonderoli seconded the motion. All members present were in favor.



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

3. OLD BUSINESS

Docket #: PC-0413-008-AG

Petitioner: Jim Bostwick

Property Address: 3525 E. 226th St.
Cicero, IN 46034

Minor Subdivision: To allow for the split of 4.5 acres from the parent tract of 101.46 acres for the purpose of sale.

Nathan Althouse of Miller Surveying came forward to represent Mr. Bostwick on this item of business. Mr. Althouse discussed the petitioner's request for a split of the parcel for the purpose of sale. Mr. Bostwick is out of the country currently, so Mr. Althouse will be representing him and speaking on his behalf. Mr. Althouse submitted a POA in addition to all legal requirements being met for him to represent the property owner tonight. Mr. Althouse discussed the sight distance for the drive and the highway dept's issue that was discussed at the previously held TAC meeting. Mr. Althouse discussed the traffic study that was conducted and that a 45 mph speed limit was implemented which fixes their issue. Mr. Althouse stated that the plat meets lot area and road frontage. Paul Munoz said that there were no other issues stemming from the TAC meeting. Stephen Zell commented that the plat itself looks pretty straightforward, and that he had no questions or issues with it at this time. There were no other questions or comments from the board members.

Tim Fonderoli made a motion to open the Public Hearing and Mark Thomas seconded the motion. All members present were in favor. There were no comments from the public. Tim Fonderoli made a motion to close the Public Hearing and Mark Thomas seconded the motion. All members present were in favor.

President Dan Strong asked about the roadway classification of the front road in the thoroughfare plan. Paul Munoz stated that he believes it's a collector road. There were no further board member questions or comments.

Stephen Zell made a motion to approve the petition as submitted and Tim Fonderoli seconded the motion. All members present were in favor.

4. NEW BUSINESS

Docket #: PC-0513-010-AG

Petitioner: William Carter

Property Address: 5651 E. 226th St.
Cicero, IN 46034

Minor Subdivision: To allow for the split of 2.42 acres from the parent tract of 16.6 acres for the purpose of sale.



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

Mr. Althouse came forward to also represent the Carter's on their petition. Mr. Althouse has submitted a POA and all legal requirements have been met for this agenda item to be heard tonight. Mr. Carter gave permission for Mr. Althouse to speak on his behalf. Mr. Althouse discussed the TAC findings and the proposed right of way that they were requesting. Mr. Althouse passed out a diagram that showed a 55 ft right of way. Mr. Althouse stated that this was discussed with the Hamilton County Highway Department and they are willing to reduce the right of way to 35 ft and that 55 ft. would be a deal breaker for the potential buyer. Mr. Althouse discussed the TAC meeting and the timeline for the project due to the need for the County Commissioners' approval along with the County Highway Department's support. Mr. Althouse stated that they missed the cutoff for the County meeting, and he would like this to be approved subject to Commissioner's approval of the proposed right of way changes. Discussion of this topic continued amongst the members of the board and Mr. Althouse. President Dan Strong stated that it could be added as a condition to the board's approval tonight. Mr. Althouse passed out a new plat diagram that shows the 35 ft right of way that they will be asking the County Commissioner's approval for. Mr. Althouse discussed the drainage on the property and will plat a 30 ft drain for the property. Paul Munoz commented that there were no other issues stemming from the TAC meeting. Paul Munoz discussed the County Surveyor's issue with the drain and their request for extra identification on the plat to notate permission. Discussion of this continued amongst the parties present.

Stephen Zell made a motion to open the Public Hearing and Eric Hayden seconded the motion. All members present were in favor, and the Public Hearing was opened. There were no comments from the public present. Stephen Zell made a motion to close the Public Hearing and Mark Thomas seconded the motion. All members present were in favor.

President Strong made note of adding the Commissioner's approval for the right of way and easement and stated that this would need to be recorded with the plat/deed. No further discussion occurred. Stephen Zell made a motion to approve the petitioner's request with the following conditions: that the Hamilton Co. Commissioners approve the 35 ft right of way as well as the legal drain that was mentioned and that the appropriate documents be recorded with instrument numbers relating back to the proper documents. Tim Fonderoli seconded the motion. All members present were in favor.

Docket #: PC-0513-011-R1

Petitioner: Larry and Arlette Gray

Property Address: Lot 66 Forest Bay Estates
Cicero, IN 46034

Minor Subdivision: To allow for the split of a parent tract of 8.7 acres into two (2) separate tracts for the purpose of sale. The tracts are to be used for single family dwellings.

Wyatt Johnson, the Surveyor working on this project came forward and discussed the proposed split. Mr. Johnson provided a POA from the petitioner's and they are present this evening as well. Mr. Johnson discussed the request by the Gray's, and discussed the TAC findings and their requests for easements on each



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

side as well as a few typos in the Commissioner's signature block on the plat which have been addressed. Mr. Johnson stated that the plat meets the ordinance requirements for lot area, lot size, etc, and that a soil evaluation has been done and that the septic was recommended by the Hamilton County Health Department. Stephen Zell inquired about the inclusion of the Covenants and Restrictions of Forest Bay being included in the board member's information packets. Stephen Zell asked what the legal requirements and boundaries of board are as far as the Covenants and Restrictions are concerned. Legal Counsel Aaron Culp discussed the fact that the board cannot enforce Covenant's and Restriction's, but that they can take them into consideration when making their decision. President Strong asked Aaron Culp about a minor subdivision split in an already existing subdivision, and whether this requires a variance? Paul Munoz said it's actually considered a Replat of the lot not a Minor Subdivision. President Strong asked about the Replat and whether it requires a public hearing? Discussion of this topic continued. Stephen Zell asked if the petition was advertised as a Minor Subdivision split or a Replat? Paul Munoz stated that it was listed a Minor Sub in the Legal Notice. Paul Munoz said it is listed correctly as a Replat on the Staff Report, and the plat that was provided by the Surveyor. Aaron Culp recommends that it be re-advertised as a Replat in the paper by the Town of Cicero since it was error on the part of the Planning office. President Strong explained for the record that a Public Hearing Is not required with a Replat and the decision is based solely on the discretion of the board. Legal Counsel Aaron Culp stated that all of the board members have a copy of the Forest Bay Covenants and Restrictions, and that they will take those into consideration prior to making a decision. President Strong explained to the public present that the agenda item will be tabled for re-advertisement. Aaron Culp stated that even though a Public Hearing is not required, he advises that the re-advertisement be completed so that that it is listed correctly. Tim Fonderoli made a motion to table this agenda item until the July meeting and Stephen Zell seconded the motion. All members present were in favor. Aaron Culp stated that the meeting is still public so that anyone can attend. Rita O'Rear the realtor for the petitioner's discussed their desire to receive public input from other Forest Bay property owners and neighbors. Aaron Culp discussed the proper procedures and rules that must be adhered to during the meeting. Aaron Culp explained that state statutes dictate the board members' actions. Aaron Culp discussed the fact that the Covenant's and Restriction's are a private matter and that they are not enforced by this board. Mrs. O'Rear discussed the fact that she feels that it's important for homeowners to have a say. President Strong commented it was a procedural error so public comment cannot be accepted for a Replat. President Strong stated that during the public comment section of the meeting the public can speak about their issues, concerns, etc.

5. PLAN DIRECTORS REPORT:

Paul Munoz stated that in the interest of time, he will email his items to discuss to the members of the board.

6. PRESIDENTS REPORT:

President Strong stated that he really did not have anything this evening. President Strong asked Legal Counsel Aaron Culp whether the public present can still address the board in reference to comments and questions about the Replat. Legal Counsel Aaron Culp stated that he would advise that no dialogue take place



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

between the board members and the public. Tim Fonderoli asked that members of the public who wish to speak to please state their names and addresses clearly for record. President Strong stated that they will not address questions in reference to the Replat.

7. LEGAL COUNSEL REPORT:

NONE

8. PUBLIC COMMENT

Rita O'Rear- Realtor for Property Owner Barbara Kennedy and Larry and Arlette Gray
4302 E. 236th St.
Cicero, IN 46034

Mrs. O'Rear discussed where the Gray's live currently and their desire to live in the Forest Bay neighborhood. Mrs. O'Rear passed around a diagram of what the Gray's current home looks like. Mrs. O'Rear discussed the split and the acreage, and the fact that the petitioner's have looked at the Covenants and Restrictions and are aware of them. Mrs. O'Rear discussed each lot and the fact that they will be 4 acres. Ms. O'Rear commented that the average lot size is 1.29 acres in Forest Bay excluding the 4 largest lots. Ms. O'Rear stated that her clients do not want anything to be smaller than 4 acres. President Strong stated that the public's comments need to be addressed to the board and not fellow members of the public. Aaron Culp stated that the petitioner can address the board next month. Mr. Gray asked if they can ask residents if they have questions that they can answer. Aaron Culp stated that after the meeting they can address the neighbors and answer questions. Discussion of proper procedure continued.

Bruce Boje
40 Pleasant Hill Ct.
Cicero, IN 46034

Mr. Boje asked about the application and whether the petition is being changed by the petitioner's or by the statutes and ordinances. Paul Munoz discussed the error on the Legal Notice and stated that it was an oversight on his part. Paul Munoz stated that the Replat was listed on the plat from the Surveyor as well as the Staff Report that he prepares. Legal Counsel Aaron Culp said all along it was the petitioners' intention to have a Replat. Mr. Boje said that he read the staff report, and discussed that there is no Homeowner's Association in the subdivision and that the developer is no longer in existence. Mr. Boje wanted to know if the Replat will be on the July 10th Plan Commission meeting agenda. Mr. Boje inquired as to whether the ordinances require the Covenants and Restrictions to be considered. Mr. Boje discussed the criteria under Article 4.9 subsection E of the ordinances that must be considered. Mr. Boje stated that he believes that this issue needs to be carefully looked at.



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

Sue Stahl
78 Forest Hollow Dr.
Cicero, IN 46034

Ms. Stahl stated that she has great respect for the Covenants and Restrictions and that her fellow neighbors also have this respect as well. Ms. Stahl discussed the petition and her issues with the request. Ms. Stahl stated that the homeowner's highly value the character of the subdivision as it currently exists. Ms. Stahl commented that she likes the layout of the subdivision and that she signed the Covenants and Restrictions in good faith. Ms. Stahl stated that they ask that you respect what the homeowners' signed when they agreed to live there.

Charles Will
59 Hickory Ridge Cir.
Cicero, IN 46034

Mr. Will stated that it's his belief that the Covenants and Restrictions should stand alone. Mr. Will stated that the Board should look at this item very carefully. Legal Counsel Aaron Culp stated that this board only has certain jurisdiction as laid out by the law, but that they can consider Covenants and Restrictions but cannot enforce them. Discussion continued in reference to the enforcement of Covenants and Restrictions and Indiana law.

Teresa Zimmerman
49 Hickory Ridge Cir.
Cicero, IN 46034

Ms. Zimmerman stated that she is an original purchaser in Section 2 of Forest Bay and it was purchased under assumption that the way things were laid out and platted is how they would continue to be. Ms. Zimmerman asked the board to please take that into consideration.

Jo Rhodes
58 Hickory Ridge Cir.
Cicero, IN 46034

Ms. Rhodes came forward and asked how the board could take an action that is in violation of Covenants and Restrictions of a neighborhood. Legal Counsel Aaron Culp stated that the board is not bound by the covenants and has no authority to enforce them. Discussion of this topic continued. Aaron Culp stated that the board is not a party to the covenants, and that the board is looking at rules under zoning ordinances and state statutes. Aaron Culp said that the Covenants and Restrictions will be taken into consideration but they are not bound by them when making a decision. Discussion continued about the proper procedure that the Plan Commission has to follow as well as the appeals process in court for an approval. Aaron Culp stated that an abuse of discretion claim would need to be shown to challenge the board's decision, not merely the public's disapproval of a decision.



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

Larry Gray-Petitioner for Lot 66 Forest Bay Replat

Mr. Gray discussed their proposed Replat split. Mr. Gray stated that he found out that there were covenants but was also aware that a Homeowner's Association does not exist, and that the developer is no longer in business. Mr. Gray stated that it is certainly not their intention to get into court battles or arguments with the neighbors. They just want to buy this property which is their retirement dream. Mr. Gray stated that they do not want to take care of 8 acres of property as it's too much for them to handle. Mr. Gray stated that splitting the parcel seemed logical to them for that reason. Mr. Gray commented that he has met some neighbors and they were in favor of their proposal. Mr. Gray stated that they do not want to move into a neighborhood where they are disliked and that they would walk away from this proposed purchase if neighbors are that strongly opposed to it.

Larry Carl
49 Hickory Ridge Cir.
Cicero, IN 46034

Mr. Carl stated that he completed his due diligence prior to purchasing and was fully prepared to adhere to the Covenants and Restrictions of the neighborhood when he purchased. Mr. Carl asked that the board take the Covenants and Restrictions into strong consideration.

Wyatt Johnson-Surveyor for proposed project
66th Parallel Surveying
Tipton, IN

Mr. Johnson does not understand the objections to the split by other homeowners. Mr. Johnson stated that there are three large lots left in the neighborhood and that is most likely due to them being too big to be taken care of. Mr. Johnson stated that it's in the best interest of the Forest Bay homeowners to have someone take this lot over and maintain it.

9. COMMENTS FROM COMMISSION MEMBERS:

Tim Fonderoli asked Legal Counsel Aaron Culp for input for the board members if anyone approaches them in reference to the Replat in Forest Bay. Aaron Culp recommended that they state that they cannot discuss it due to it being a pending issue with the board. Paul Munoz discussed the Replat section of the Subdivision Control Ordinances. Discussion of the Replat and the Subdivision Control Ordinances continued amongst the members of the board. Aaron Culp stated that he agrees with Paul Munoz when it comes to the procedures for the Replat in a Major Subdivision. Discussion continued about this topic.

Paul Munoz discussed the consultant who is completing the Comprehensive Plan for the town, KK Gerhart-Frits and her professorial duties at Ball State University. Paul Munoz stated that she is making Cicero the subject for a class she is teaching at Ball State and that the board has the opportunity to sit down with her to write the syllabus for her class. Discussion of this project continued.



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

Paul Munoz discussed the IACT Green Communities designation program and his application submission for the Town of Cicero. Paul Munoz stated that there is a good chance that we could win "Green Community of the Year". Discussion continued on this subject.

Aaron Culp made a suggestion to the board members that the board can advise the public at next month's meeting that we have their previous comments on the record in reference to the Forest Bay Replat and that they do not need to reiterate it.

Tim Fonderoli asked about the status of the Waterfront property. Paul Munoz discussed the potential renovations that are being proposed on the property and that the Economical Development Council has met with the interested party. Paul Munoz stated that the EDC is helping them to address issues from last year. Discussion continued on this topic and the Waterfront property.

10. NEXT PLAN COMMISSION MEETING

July 10th, 2013 @ 7:00 p.m.

11. ADJOURNMENT:

President Dan Strong asked for a motion to adjourn. Eric Hayden made a motion to adjourn and Mark Thomas seconded the motion. All members present were in favor and the meeting was adjourned at 8:16 pm.

Signature on Official Documents!

Dan Strong, 2013 C/JT Plan Commission-President

Stephen Zell, 2013 C/JT Plan Commission-Vice President

Mark Thomas, 2013 C/JT Plan Commission Secretary

Kelly Gunn, 2013 C/JT Recorder

Date: _____