

MINUTES OF A REGULAR VOTING MEETING OF THE

FAIRFIELD PLANNING COMMISSION

May 6, 2009

Jerry Dailey, Chairman, called the Regular Voting Meeting of the Fairfield Planning Commission to order.

Members present: Jerry Dailey, Jeff Holtegel, Deborah Rhees, Scott Lepsky, Terry Senger and Don Hassler.

Deborah Rhees, seconded by Terry Senger, made a motion to excuse Diana Bailey. Motion carried 6 – 0. (Ms. Bailey arrived shortly after roll call.)

MINUTES OF THE PREVIOUS MEETING:

The minutes of the previous meeting, held April 22, 2009, were approved as submitted.

OLD BUSINESS:

Design Review Committee Item – T-Mobile Wireless Solutions – 5174 Pleasant Avenue

Tim Bachman stated that the new sign being proposed is totally white. Deborah Rhees, seconded by Jeff Holtegel, made a motion to remove this item from the table. Motion carried 6 – 0.

Deborah Rhees, seconded by Scott Lepsky, made a motion to approve the sign for T-Mobile as submitted with the single color being white.

Motion carried 6 – 0.

Concept and Final Development Plan – Pleasant Meadows Planned Unit Development

Tim Bachman reviewed a memo given to the Planning Commission which contained information requested at the previous meeting (attached and made a part of these minutes):

1. **Easement Review of Ambassador Drive Extension**

Staff researched the status of Ambassador Drive and there is a plat that was prepared in 1986 for Rolling Meadows Section One which created 8 lots off of Gelhot and Ambassador Drives. The plat shows a 60' easement for Ambassador at Gelhot which broadens to 80' as Ambassador goes south. The area shaded in yellow in the handout is not part of the subdivision. Roadway drawings submitted for Ambassador Drive and the site plan for the Goddard School both show this roadway and utility easement. The intent was that Ambassador was to become a roadway. Mr. Bachman directed the applicant's architect, Roger Nash, to make the connection for this project to Ambassador Drive. The lot for this project however also has legal access to Pleasant Avenue. If the connection to Ambassador Drive is contested, we will have to address that at a time.

2. Discussion with State Officials

The State office of MRDD was contacted regarding the track record for Empowering People. Staff spoke with Ms. Barbara Steins and MRDD's legal counsel twice and found out that Empowering People is owned by Brian Collern who has several (MRDD, nursing, etc.) facilities throughout the state of Ohio. Some of these are facilities as large as Takota Trails and others are the smaller group homes. He has three 8 unit facilities in Hamilton County which staff inquired about. There are no current violations against these three homes. There were past violations with a previous operator which have been corrected since Empowering People took over.

3. Safety Concerns

The average daily traffic on Pleasant Avenue is 17,000 which is a lot of cars. The speed limit in this area is 50 miles per hour. Based on this, staff has asked if the site could be designed with a second wave of security such as a fence and gate around the front entrance of the facility.

4. Ohio Revised Code Permission to Site a MRDD Group Home

This was discussed at the last meeting and Mr. Bachman stated he needed to clarify the number of individuals that can live in this type of facility. Under a licensed MRDD facility, there can be between 6 – 8 individuals; it is not subject to local zoning. It is subject to set back requirements, design review, etc. These facilities may be located in neighborhood residential areas. Facilities licensed through the Health Department may have up to 6 individuals residing at the facility/home. These too can be located in residential subdivisions.

5. Re-zoning Recommendation

Tim Bachman stated that the Commission has to make a decision this evening on this item. If approved, conditions could be placed and Mr. Bachman read the six suggested conditions listed in the memo.

Mr. Dailey asked if the patios are enclosed and Mr. Bill Maynard, applicant stated they are. It not only assists with safety but creates a residential environment in the back yard.

Roger Nash with Withers Design Group stated they could agree with items 2, 3 and 4. Regarding item 5, residents are not always referred through MRDD. Mr. Maynard stated individuals are assessed through a government agency for "level of care". The facility itself is responsible for placing individuals that are appropriate for the environment they offer. Deborah Rhees cited the first paragraph in the letter submitted by Christina Hurr, Superintendent for the Butler County Board of MRDD, which states they are not the sole provider for placement of individuals. Ms. Rhees asked how we could be assured that individuals with adverse behavior will not be located here. Mr. Maynard replied that individuals can be referred by county boards, family members, etc. Mr. Nash added there are several referral agencies. The facility is only licensed for MRDD services. The other services referred to in the letter are community based services such as the workshops, etc. Mr. Maynard stated they assess individuals that can achieve "active treatment" or daily training. The individual needs to fit into the environment with their peers and also be able to go through active

treatment such as daily bathing, brushing teeth, etc. Ms. Rhees asked if persons with deviant behavior or addictive behaviors could reside at this facility. There are programs for some individuals however that involves behavior intervention for them as a part of their active treatment plan.

Wording for recommendation #5 was discussed. Mr. Maynard suggested "Individuals served in this facility would be in accordance with guidelines as set forth by government agencies such as MRDD, Ohio Department of Health" or something to that affect. John Clemmons added that if it gets to the point of being approved, a written commitment needs to be submitted by Empowering People stating that the homes will not house sex offenders or persons with drug addition or other behavioral issues. It will be a facility licensed by the Ohio MRDD for people with mental retardation and developmental disabilities.

Deborah Rhees asked for the definition of a behavioral issue that Empowering People feels is treatable. Mr. Maynard responded it could be anything from withdrawn behavior, self injurious behavior, aggressive behavior but those are all within the context of things they consider treatable. In the document discussed at the previous meeting which was a response to the concerns raised by the Planning Commission, Empowering People's response for item 5 stated "This is not a home for sexual offenders or individuals that would provide risk to the safety of the surrounding areas".

Mr. Teppe, attorney for the applicant, suggested statute 5123 be referenced as it is the licensing statute for the mentally retarded and by statute, precludes the other types of people that the Commission is concerned about. Referencing the licensing and statute might be the easiest way to limit the homes to only mentally retarded individuals. Mr. Clemmons responded he and Mr. Teppe can work this out later through the process but it needs to be clarified for the record.

Mr. Clemmons spoke about statute 5123. The homes are being proposed in a C-1 district which includes R-1 uses. Mr. Teppe is of the opinion that the group homes would qualify as a permitted use in the C-1 zone. There is a questions of 2 facilities versus 1 and Mr. Clemmons is not agreeing with Mr. Teppe's position that these homes would qualify in the C-1 zone. It is obviously written to include any single family residential home. What this means is that a group home could locate in any residential zone in the City. There are a lot of large single family lots throughout the City where they could build these or they could take and use an existing house. This is a very powerful public policy that the state has made. Mr. Holtegel added that he would rather see this locate through the P.U.D. process and have safeguards as to allow it to go into any residential zone with no control. Ms. Bailey pointed out these facilities are set up specifically for this use with all of the areas that they need and is a lot more structured for these individuals over a single family home.

Don Hassler asked how many individuals could locate in a single family home and Mr. Clemmons responded 6 – 8. Mr. Hassler asked how many were individuals were in the Whitmore Estates home and Mr. Clemmons clarified that home is licensed through the Ohio Department of Health and is limited to 6. There is not a lot of case law on these statutes but the Attorney General has said this is a public policy of the state and cannot be superceded by local authority. Mr. Teppe said the P.U.D. process was suggested by city staff so that control measures could be put in place. He pointed out that in any multi-family district, up to 16 individuals are permitted.

Ms. Rheese asked about items 4 and 6 which have yet to be addressed. Mr. Nash stated the connection to Ambassador Drive is shown on the revised plan they handed out this evening. Mr. Nash asked if they would have to come back to revise the P.U.D. if this connection cannot be accomplished. Mr. Clemmons replied they have to have legal access somewhere. If access to Ambassador Drive would be denied, access to Pleasant Avenue would be allowed subject to curb cut size and design. Mr. Clemmons pointed out that additional right of way is going to be needed in accordance with the Thoroughfare Plan to widen Pleasant Avenue at some point and we are asking for that right of way as part of the approval of the project. Tim Bachman stated it is shown on their site plan as access easement but it needs to be clarified as right of way. Discussion was held regarding the amount of right of way needed and Mr. Nash was told that it needs to be in accordance with what the Thoroughfare Plan requires.

Mr. Nash asked about the process for using Ambassador Drive and Mr. Clemmons said if the Planning Commission makes it a condition of approval, the site plan should be designed for that connection. If the property owner contests, we will have to work through it but the site plan for the Goddard School shows the easement. There is also legal right of way in this same area.

Regarding item #5, Mr. Dailey stated the letter submitted from Empowering People states their lease will be for 15 years. Mr. Dailey expressed his concern as to the future use of the facilities should Empowering People not renew. Mr. Clemmons stated that the P.U.D. agreement will be binding between the City, Empowering People and the land owner.

Mr. Nash addressed item #6 (control access) and stated they have not shown any new fencing on the site plan at this time. They would like to maintain a residential look rather than have a gated facility. Mr. Maynard stated the staffing ratio is enough to ensure they no residents will get down towards the roadway. It is their responsibility to staff the building effectively. Fencing does have a nice touch but it is not a benefit to have it around the facility. Mr. Nash added that alarms are on the doors which staff will respond to if the alarm goes off.

Mr. Nash informed the Commissioners that they are in the process of planning a redevelopment of the Takota Trails campus since it is being downsized. The buildings are over 30 years old and the plan is to remove the residential buildings and replace them with the small group homes. This is also part of the agreement with the State to reduce the residents there.

Scott Lepsky asked about the Patterson Drive property and if it had been taken into consideration as the site for the two group homes. Ms. Christine Hurr, Superintendent of Butler County MRDD, stated the Patterson Drive facility was leased by MRDD, they do not own it. The property is now owned by the bank. Mr. Lepsky asked if they would consider this property due to its accessibility to parks, library and other amenities. Mr. Maynard stated they did quite an extensive search and feel the Pleasant Avenue property is the best site for their needs.

CITIZEN COMMENT:

Mr. Garver Owens, 1612 Oak Valley, stated the Commission should remain concerned about the residents safety in relation to Pleasant Avenue. Staff cannot watch them constantly. Mr. Owens
Planning Commission Meeting Minutes
May 6, 2009/Page 5

expressed his concern with the frequency of turn over of the agencies providing the care giving.

Mr. Ray McDaniel, 249 Palm Springs Dr., asked if widening Pleasant Avenue would take Ambassador Dr. Mr. Bachman explained it would depend on the design of the widening.

Mr. Bob Breen, 1632 Oak Valley Dr., opposes the application for rezoning. He stated the 2005 Land Use Plan states this property should remain C-1, neighborhood commercial, and should serve the neighborhoods. The City should assist the applicant in finding another site. He understands this could go into a residential area and if they would do that, MRDD could lose support for any future levies.

Ms. Jean Thomas, Gelhot Drive, expressed her concern with the safety of the residents if Pleasant Avenue is to be used for pedestrian access or if a resident was to wonder to Pleasant Avenue unsupervised.

Ms. Peggy Potts, 5292 Freida Dr., pointed out that a single family home could be built on this property which would prohibit any business from locating there. The Patterson Drive property would have to have the existing building demolished.

Ms. Lynn Whitaker, 1780 Calumet Way, stated she is the Director of Nursing at Takota Trails and stated The Dip is not fenced with all of the kids that are. The vet across the street is a safety concern when animals get excited and start pulling their owners. Goddard is fenced in the rear but children could still run through the parking lot. These facilities will create jobs and benefit the community.

Mr. Ray McDaniel, 249 Palm Springs, stated the residents are supervised at all times. He has a daughter that lives in a similar facility.

Ms. Tammy Hollman, 301 Ramey Lane, feels that the request is fair since the property has already been set up for commercial/residential. She felt this is more of a rights issue than a zoning issue.

Mr. Mike Fitzharris, 1582 Oak Valley Dr., expressed his concern with the safety of the residents in relation to Pleasant Avenue. There was a nursing home across the street in which two residents there got out along Pleasant Avenue and it was very scary.

Ms. Francine Streithorst, 1565 Oak Valley, expressed her concern with the 50 mph speed limit, 17000 cars, 15 year lease issue, preventing violent people from living in this facility, etc. She brought up the tenant that was murdered at the Fairfield Center and asked if Empower People were involved at this facility. Mr. Maynard stated that is how they became involved; they were brought in after that incident. Ms. Streithorst suggested that another site be pursued.

Ms. Millie Ownes, Oak Valley, expressed her concern that the site would not be fenced. She too felt there is a better location than this.

Ms. Peggy Potts, 5292 Freida Dr., stated that even if the Patterson Drive site was considered, the residents could not walk to the library there. They rely on transporation.

Mr. Bill Maynard stated this facility will bring value and revenue to the city. This site will provide approximately 25 jobs. The setback on this site is much deeper than Goddard and these homes will generate much less traffic than other commercial uses.

COMMISSION DISCUSSION:

Scott Lepsky stated there have been many concerns brought up – future widening of Pleasant, access via Ambassador, many safety issues, etc. Mr. Lepsky is still concerned about the location of this facility on a road that has 17,000 cars going 50 mph. He would like to see the applicant work with the development team towards a different site.

Deborah Rhees stated her first reaction was why would we want this facility right next to Goddard School. She listened to the proposal and comments and felt it will serve the community. What Empowering People is trying to do is integrate these individuals into the community.

Jeff Holtegel stated he does not see any major compelling reasons to vote against this. As a Commission, it is not our job to ask them to look at additional sites. The Commissioner's job is to consider the site that they have proposed.

Jerry Dailey reiterated that the Commission cannot consider Patterson or any other site.

Diana Bailey, seconded by Jeff Holtegel, made a motion to recommend approval of the Concept and Final Planned Unit Development applications for Pleasant Meadows P.U.D. as depicted on the site plan presented this evening with the following conditions:

1. As defined in the Thoroughfare Plan, additional right of way will be dedicated to the City to allow for the extension of the roadway easement and serve developments south of this property. Access to this site shall be from Ambassador Drive;
2. A detailed landscape plan shall be submitted to and approved by the Planning Commission prior to obtaining a building permit;
3. A lighting and photometric plan shall be submitted to and approved by the Planning Commission prior to obtaining a building permit;
4. Only two residential structures shall be located on the subject site and no more than 8 units shall be located in each building;
5. Language will be drafted by the Law Director, Development Services Director and applicant's attorney regarding the residents that will be permitted to reside in the facility. It is the intent of the Commission that the facility is to house residents who are mentally retarded or developmentally disabled. The facility is not to function as a halfway house or group home for sexual deviants, persons receiving drug and/or alcohol rehabilitation, etc.
6. The Pleasant Meadows Planned Unit Development agreement shall be executed by the City of Fairfield, Empowering People and the owner of the land.

Ms. Bailey also strongly recommended that decorative, residential type fencing be placed between the entry of the facility and parking lot on both buildings for additional security.

Don Hassler stated he is not against the residents that intend living there if this is approved. He has had family members living in this type of facility. He is voting based on what he feels is the appropriate use of the land.

Terry Senger stated that a second meeting was needed due to the amount of information discussed. The Commission wants to do the best thing for Fairfield.

The vote was taken by roll call with Commissioners Dailey, Holtegel, Rhees and Bailey voting for and Commissioners Senger, Hassler and Lepsky voting against.

Tim Bachman explained the Commission's recommendation will be forward to City Council for further action.

Being no further business, Diana Bailey, seconded by Jeff Holtegel, made a motion to adjourn. Motion carried 7 – 0.

Jerry L. Dailey, Chairman

Peggy Flaig, Clerk