

Garrettsville Planning Commission Minutes

January 5, 2006

Chairman, Mr. Kirk called the meeting to order at 7:05 pm with, Don Harvey, Jerry Kehoe, Mark Manlove (Solicitor), Craig Moser (Mayor) and Jan Boehm (Zoning Inspector) present. Steve Hadzinsky was absent

After the Pledge of Allegiance, Mr. Kirk (Chairman) requested a motion to approve the minutes of the last meeting. The minutes of the Planning Commission meeting of December 1, 2005, were approved when Don Harvey motioned to approve the minutes and Jerry Kehoe seconded the motion.

Vote: Ayes – Unanimous

Mr. Michael Porter submitted a revised Preliminary Plot Plan for the proposed development, “The Woods.” This current revision proposed two cul-de-sacs, one from State Route 88 and the other from Garfield Drive. To date, the zoning office had not received responses from village departments with respect to Appendix A of the Village Ordinance 1105.04.

At this time, Mark Manlove (Solicitor) reported the Village requested a title search on the land to be used for the proposed street at Foxwood development on Garfield Drive. The title company reported no recorded deed restrictions on the property; therefore, a street may be placed on that land.

Dave Kirk (Chairman) commented, with no apparent deed restrictions from the title company the Planning Commission would encourage following the Village Plan adopted in 2001 by the Planning Commission and the Village Council, encouraging the development of more thru streets than further development of more cul-de-sacs. The plan discussed and approved at the December meeting with a through road, built in phases, is still, from a safety issue, keeping with the village plan, and is of more interest to the village.

Mr. Manlove (Solicitor) reiterated the village code’s intent of approving plat plans to be within the best interest and future growth of the village; it is the Planning Commissions responsibility to make a decision be it through streets or cul-de-sacs in that area. Dave Kirk reiterated December’s decision of the one street connection being more in keeping with the village plan, and not going with cul- de- sacs.

Mr. Manlove discussed the two letters from the fire district and the ambulance expressing their concerns, and their not signing off on the plans in December. These letters were not discussed at that December meeting. Mr. Manlove also reiterated that, clearly the village has stated a through street would be approved, and the title of the Foxwood property was being researched at that time.

Mr. Porter interjected his understanding from his title company that there has been, and still is a deed restriction on the property in question prohibiting a thru street to be cut through from Garfield Drive to State Route 88. Mr. Porter also raised the issue as to whom and when the restrictions were placed on the deed in question. Mr. Manlove stated he was told, before Mr. Porter’s purchase of the property there were no restrictions. The question was raised as to when the deed restriction was put on the property. Mr. Moser requested a copy of the deed be forwarded to Mr. Manlove for review.

Mr. David Friess, the Fire Chief, attended the meeting on behalf of the fire department regarding the possible problems with the one egress and ingress of the proposed development. Mr. Friess reiterated of the need of the thru street with room for various emergency vehicles answering an emergency call. At this time, Mr. Kirk interjected information from a past discussion he had with the Community Ambulance Services who had similar concerns with one ingress and egress, and the width of the roads with respect to the size of the equipment, which may pose future issues of concern.

Mr. John Walsh asked if the second plan meets every relevant section of the code.

Mr. Manlove stated it does not meet with what the Planning Commission may decide is in the best interest of the village, based on the village codes and the Village Plan. Dave Kirk again, presented the Village Plan and discussed the issue of limiting cul-de-sacs; reiterated that the issue at the December 1, 2005, meeting was the proposed length

of the cul-de-sac. Possible future roads were highlighted from the Village Plan to illustrate the meaning of the intent of the plan, with specific reference to the road in question.

The Village Plan was discussed being recommended and adopted by the Planning Commission and Council; it was meant to be a work to keep improving the ordinances, and to be in continuous review. Mr. Kirk stated it is his understanding that Mr. Porter has acquired the property with no deed restrictions, filed on record, and the property is open for building straight through; therefore the Village is behind that project.

Mr. Kehoe requested a review of the issues of the December meeting with respect to the discussion of the land in question, and the proposed plot plan at that time.

The fire department's concerns at the December meeting were discussed, regarding the original cul-de-sac not being appropriate, and the Commission's views of a through street were discussed as being viewed as appropriate. The village's acquisition of the property in question was discussed, release/hold harmless agreement should the village have purchased the property. It was the Solicitor's understanding the village could have purchased the property without restrictions.

Mr. Matson expressed his concern, if a street were put in, and there is a lawsuit, is the village liable? Mr. Manlove stated that the village was to purchase a title commitment, meaning the village would be held harmless. There was much discussion regarding the deed restrictions, the possibility of the deed restrictions intended and not being passed on for the possible reasons of the restriction discrepancy. Mr. Manlove stated that through his conversations and research it was clear that there were no restrictions through the 1950's or 1960's on the property.

Mr. Harvey stated that Foxwood was a recorded plat, and the particular stub in question was reserved as a future street with no statement as to what kind of street or termination of that street, this was signed off by the owners of record. Mr. Manlove requested a copy of the title to research further back in view of this.

Mr. Porter asked if he is turned down on the plan submitted this evening, is this the result of the interpretation of the Village Plan? Mr. Kirk stated a plan has been approved as a through street plan; now a revision has been submitted. The revision has not yet been approved and is in question. Mr. Harvey stated that the Planning Commission's efforts have been to facilitate the plan, offer suggestions to phrase the words in a way the commission could possibly approve it as temporary parcels.

It was well taken by Mr. Moser that wetlands and swamps were not taken into consideration when the Village Plan was developed. It was also stated that the Village does not know what F.E.M.A. or the Army Corp of Engineers will permit or the restrictions required for the crossing of the wetlands or the flood plains. Mr. Moser also stated the Commission understood why the two cul-de-sacs are drawn. The Mayor also restated the safety issues of cul-de-sacs about emergency vehicles must be taken into consideration.

Mr. John Walsh, Mr. Porter's consulting engineer's contention was that they have met with the village ordinances with respect to the cul-de-sacs in place.

Mr. Moser stated the Commission understands the anxiety and frustration of the builders; however, there is a set of rules and a Village Plan the Commission is operating which is standing for the betterment of the village established and voted on to approve or not approve a plot plan as the Commission's particular role. The attempt in the past meetings is to work to make that happen for the village's interest as well as meeting the developer's interest.

The intent of the village to purchase the Foxwood property, and the title search was discussed at length again.

Mr. John Walsh stated he thinks Mr. Porter has presented a plan that meets code and he is asking the Commission to approve the revised plan. Mr. Harvey stated the Commission has already approved the previous plan. The Harrington/Bonner development was discussed. Mr. Harvey stated it is the Commission's intention to provide for the safety of the people by providing alternate ways through the village, and consider the response time for emergency vehicles.

After much discussion, Mr. Porter stated to the Commission, his plans meet the current codes of Garrettsville. Mr. Porter also stated he plans to investigate the deed restriction issue.

Mr. Matson interjected from the audience his interpretation, the project hangs on the deed in question, and two stories on the restrictions. Making the assumption that the deed stipulates there shall be no thru streets. Mr. Matson feels it is incumbent on the Commission to consider December's plan null and void because it is legally not possible. Then consider the second plan that removes the need for the reference to the Village Plan because the Plan cannot supersede a legal obstacle.

Mr. Manlove questioned the time frame of the restrictions on the deed. Mr. Kehoe questioned the original intent of the individuals involved for the Foxwood property in question; possible intentions were discussed at length. Mr. Manlove again stated the Planning Commission is a board that governs the whole Village of Garrettsville for the better interest of all village residents not for individual subdivisions, commercial uses or anything else, and makes decisions based upon what is in the best future interest of the entire Village.

Dave Kirk stated he must consider both the Plan as well as the Ordinances, because the Plan was what the village indicated was in the best interest of the village. Mr. Manlove reiterated to Mr. Porter that the Village Plan was as legal as the Village Code, both adopted by Council and the Planning Commission.

Mr. Porter asked if the cul-de-sac issue would be approved even though he feels all the requirements have been met. Mr. Moser stated the preference for a through street; this depends on the legality of the deed restriction, does it exist or not. Mr. Manlove discussed conditions for the possible removal of the restriction.

It was discussed that if there is a deed restriction it must be dealt with; Mr. Moser questioned the process of the possible deed restriction removal.

Mr. John Walsh questioned if someone other than Sandy Layer held the deed restriction and the restrictions stood, would the Village approve the two cul-de-sac plan? Mr. Moser has stated that those are the alternatives the Village is considering. The possibility of the approval of the first plan with a thru street if there are no deed restrictions of record or if it may be removed is a preference. If the through street restriction cannot be removed, then there is a possibility of approaching the two street cul-de-sac plan because the Village Plan will be stopped by a legal obstacle that cannot be overcome. An attempt will be made to overcome it because it is felt this is in the best interest of the Village to do so.

Corp of Engineers was discussed as an issue, regardless of which project goes forth. Discussion of the possibility of Corp of Engineers and F.E.M.A. involvement with lots 7-14 within the footprint of the flood plain commenced.

Crossing the flood plain and changing the elevation of a road in the existing flood plain was discussed. Mr. Moser interjected the contingency is a through street if the deed restriction is not recorded or can be removed. If the restriction cannot be removed, then the Commission would like to consider the two cul-de-sac plans, meeting the current zoning the legal restriction would prohibit the Council from fulfilling the Village Plan. The Village Plan would be considered first.

Issue of the deed restriction restrictions was again covered; Mr. Porter was directed to work with Mr. Manlove directly.

The temporary driveway to Garfield Drive was discussed for the first phase of the project was discussed with relation to the thru street project.

The site plan for 11090 North Street was discussed with relation to the absence of the surveyor's signature. The Zoning inspector was directed to issue the permit without the signature.

Mr. Matson questioned the integrity of the concrete being poured at the Quail Run development. The issue was recommended to Council for discussion.

Mr. Pou's noncompliance regarding his fence and back yard structure was also discussed.

Dave Kirk called for an adjournment. Jerry Kehoe motioned for an adjournment and Don Harvey seconded the motion.

Vote: Ayes – Unanimous