

PLANNING COMMISSION

MINUTES

April 5, 2011

Members Present: Lynne Thomas-Roth John Bruns
Glynn Marsh

City Staff Members Present John P. Applegate Denise Winemiller

Mrs. Thomas-Roth called the Planning Commission meeting to order.

Attendance was taken and Mayor Goudy was absent.

1. Mrs. Thomas-Roth asked if there were any corrections or additions to the minutes from the last meeting which was June 2, 2009. There were no comments so Mr. Marsh moved that the minutes be accepted as prepared. Mr. Bruns seconded the motion. All concurred and the minutes were accepted as prepared.

2. 11-02 - A 20.169 acre tract split (west side) north of Stoney Crest subdivision.

Mrs. Thomas-Roth asked if 11-02 and 11-03 would be handled together. Mr. Applegate said they could do them both at once.

Mr. Winemiller said he had been hired by the bank to put together a plat and survey for the remainder of the ground. Mr. Winemiller added that Stoney Crest Farms has the two tracts they will be looking at tonight, a twenty-nine acre tract on Antioch School Road, and a sixteen acre tract on the other side of Frederick. They will be selling all of these in the next few weeks by a private bid.

Regarding the acreage represented by 11-02 and 11-03, Mr. Winemiller said they hoped the same person would buy both of these properties.

Mr. Applegate said that Bruns Realty had informed the Stoney Crest Home Owner's Association about the sale and he had received eight to ten calls about it. Mr. Applegate said he had expressed to the president of the Home Owner's Association that the zoning was there to stay. The plans that were approved on the preliminary and final subdivision plans would stay the same and that anything that the city would approve would have to comply with what was set up in the original process. Mr. Applegate said he knew that Mr. Winemiller had explained that to them also.

Mr. Winemiller said there could not be any estate type homes. Anything that was built would have to follow the approved plan of Stoney Crest. The only other thing that would be permitted aside from residential development would be a grain farm or if not that, they could put in grass.

Mrs. Thomas-Roth asked if the bank has the responsibility to do something with the property. Mr. Applegate said that the homeowners in that area had been concerned and were happy that something was being done. Mr. Applegate said it was the position of the city that the subdivision will stay the way it was designed.

Mr. Marsh asked about the parcel to be sold to Buckeye Motors and Mr. Applegate said it had sold.

Mr. Bruns clarified which tracts were being discussed and that 11-02 and 11-03 were both on the same map. Mr. Applegate said 11-02 listed on the agenda as 20 acres should be listed as 20.169.

Mr. Marsh verified that they were splitting off two tracts from Stoney Crest. Mr. Applegate said one was an original tract on its own. The reason why both of the tracts are on the agenda is because the planning commission is approving the moving of the property line. Also, each tract could be sold separately.

Mr. Bruns asked if that would have any effect on the three properties on Sande Court. Mr. Applegate said it would not. This proposal was not moving the property line for those lots. Mr. Applegate said it was originally part of the

original tract and was straight. Now the property line is matching the original approved line on the plat.

Mr. Winemiller said they had updated the legal descriptions and they need the planning commission's approval on these tract splits.

Mrs. Thomas-Roth and Mrs. Marsh said they did not have a problem with it.

Mr. Applegate said due to the circumstances with the owner passing away, there are all kinds of questions.

Mr. Winemiller said he would like a definitive answer from the city that Stoney Crest would continue to be developed as originally designed with the HOA, etc.

Mr. Marsh said what Mr. Winemiller was looking for would have to go into the motion. Mr. Applegate said in addition to approving the request for this replat, this will indicate that the planning commission and staff has relayed to the engineer, who will relay to the bank *that the remaining acreage and what will be approved tonight has to comply with the preliminary and final plans that have been approved and are on file with the city, comply with all the HOA rules and be a member of HOA if houses are being built, comply with recorded current covenants, and acreage will comply with everything that has already been done.*

Mrs. Thomas-Roth asked if this would discourage homeowners. Mr. Applegate said he would like everyone to know up front that they cannot come in and rezone the property and if there is a proposed minor change, that they will come in with discuss the change with the HOA.

Mr. Winemiller said he did not think it would discourage a new developer because the utilities and design had already been done. They would have to have engineering done but everything else for the subdivision had been done.

Mr. Applegate said he had talked to someone from Bruns Realty because someone wanted to purchase some land and have it rezoned back to agricultural and Mr. Applegate said that would not happen.

Mrs. Thomas-Roth asked if the Home Owner's Association had anything to say about it. Mr. Applegate said no. They are responsible for maintaining the green space, two shelters, fencing, and landscaping. They had tried to give it to the city but it was not accepted. The HOA has no authority if the city decided to do something different with the subdivision. For example, a portion of the property is next to Light Industrial zoning and away from existing houses so a change of zoning could be proposed.

Mr. Marsh clarified that if there was a substantial change from what has been planned, the proposal would have to come before the board. Mr. Applegate said it would need to be any change, not just a substantial change that would have to come before the board.

Mr. Bruns moved that the tract split 11-02 be approved with the aforementioned stipulations as previous enumerated by City Manager, Mr. Applegate, and on record. (see statement in *italics* in earlier paragraph). Mr. Marsh seconded the motion. All concurred and 11-02 for a 20.169 acre tract split was approved.

3. 11-03 - 23 acre tract split (east side along Frederick Pike) north of Stoney Crest subdivision.

Mr. Bruns moved that 11-03, 23 acre tract split be approved with conditions and stipulations noted by city manager, John P. Applegate, as referred to in 11-02. Mr. Marsh seconded the motion. All concurred and 11-03 for a 23 acre tract split was approved.

4. 11-04 - Preliminary and Final Plat application for a 7 lot subdivision, Stoney Crest South.

Mr. Applegate asked Mr. Winemiller to show the board members a map of the area. Mr. Applegate indicated on the map an area that the city owned (27 acres) and a plan was developed by Thomas Miller after he purchased the

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development from Stoney Crest Development. The city now has another proposed plan with the same boundary configuration as what was established originally.

There are seven proposed lots. A new easement has been created which Mr. Applegate indicated on the map. Mr. Applegate said Mr. Winemiller has come up with a new plan that meets the city's requirements so they can still get the sewer to where it needs to go.

Mr. Applegate said they have been getting a lot of calls about the property and what can be done and what cannot be done.

Mr. Winemiller said they have submitted a list of covenants and descriptions for the seven lots and this would be a separate legal entity with different covenants and restrictions. One of the notable covenants and restrictions added was seventy-five percent brick and stone veneer on the front of the house, roof pitches, paved or concrete driveway, etc. Mr. Applegate said the covenants would need to include concrete driveways, not just paved, sidewalks, overhangs, etc. Mr. Winemiller said he would change the paved to concrete driveways. Mr. Applegate asked what Mr. Winemiller used for square footage and he said 2,000 square feet minimum for homes and Mr. Applegate said he was glad to see that.

The zoning is R-PUD for this area. The application says R-3 but the zoning is R-PUD.

Mr. Applegate said they have had people from Stoney Crest call and ask if they could buy the vacant lot next to them and the answer is yes. People have also called and asked if they could build a garage on the vacant lot and the answer to that question is no because the covenants that are recorded do not allow that. If people want to have a replat of the two lots into one lot, they could add a garage or addition to the house.

Mr. Marsh asked about the legal description of Stoney Crest South, because it says City of Union and Butler Township. He asked if a portion of the property was still in Butler Township. Mr. Winemiller said that was correct. There was a half acre of road right of way that has utilities, a drainage ditch, etc. As developers, that has to be given to the public.

Mr. Winemiller said despite that ninety-five percent of the land is controlled by the City of Union, he still had to submit items to Montgomery County for their approval to get the plat recorded. Mr. Winemiller said the strip of land would be dedicated or turned over to the public. Mr. Marsh said he was asking the question hoping to avoid any difficulties between the township and the city.

Mr. Applegate asked if the original property would go to the center of the road. Mr. Winemiller said that was correct.

Mr. Winemiller said there is a thirty foot strip in the township. Mr. Applegate suggested that they give it to the City of Union. Mr. Applegate said he would insist that it would have to be deeded to the City of Union. Otherwise, for those property owners that would buy along that strip, they would have to pay Butler Township or the county for various things when they shouldn't have to. Mr. Applegate said it would make things simpler for Mr. Winemiller and if there was a discussion, they could talk to him about it.

Mr. Applegate asked what it would take to get that corrected and Mr. Winemiller said he would try to arrange a conference call between Mr. Applegate and the other party.

Mr. Winemiller mentioned about splitting it right now and having Stoney Crest deed it over to the City of Union. Then it would be Union's and not even included in the plat.

Mr. Marsh asked who was doing the road maintenance and Mr. Applegate said they are currently working with the county but mostly Union is salting and plowing the street. Union's water line is in the easement already which would be a good reason to have the land deeded to the City of Union.

To expedite the approval of the subdivision since there are several buyers wanting to move forward with purchasing lots, Mr. Applegate suggested that he have the planning commission approve the subdivision contingent upon Stoney Crest deeding the thirty feet discussed to the City of Union. The land would still be located in Butler Township but owned by the City of Union.

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Mrs. Thomas-Roth moved that they accept 11-04, the preliminary and final plat application for Stoney Crest South, contingent upon Stoney Crest Farms Unlimited, deeding thirty feet of existing right of way in Butler Township to the City of Union, following the corporation line. Mr. Bruns seconded the motion. All concurred and 11-04, a seven lot subdivision know as Stoney Crest South was approved.

5. Open Agenda

Mr. Marsh asked if the car racing business was going forward. Mr. Applegate said he thought he had seen people there cleaning up the area. Mrs. Winemiller said she has seen trailers and vehicles in the bay.

Mr. Winemiller said that 7900 Corporation still owns a parcel of land and they looked at the map on that. Mr. Applegate thought that there was going to be a force main put in there.

6. Mr. Bruns moved that the Planning Commission meeting be adjourned. Mr. Marsh seconded the motion. All concurred and the meeting was adjourned.

