

MINUTES OF THE PLAN COMMISSION
April 9, 2018

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:12 p.m. at the Village Hall.

Members present: Chairman Mark Moore, Amy Flores, Walter Oakley, Richard Pyter, Kurt Schultz, and Eric Steffe.

Members absent: Matthew Krummick.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Jeff Cooper, Village Engineer.

Commissioner Schultz moved, seconded by Commissioner Flores, to approve the February 26, 2018, Plan Commission meeting minutes.

Motion carried 6 - 0.

Commissioner Flores moved, seconded by Commissioner Pyter, to approve the March 12, 2018, Plan Commission meeting minutes.

Ms. Kelly Richter, 249 East Ellis Avenue, stated that after reading the draft March 12, 2018 Plan Commission meeting minutes, she objects to how the minutes represented the comments that she actually made at the meeting. She stated that the March 12, 2018 Plan Commission meeting minutes as they are written do not represent what she said. She stated that it is important that her objection is noted publicly tonight because the Plan Commission meeting minutes are now going to be considered at the Village Board meeting tomorrow and be considered as part of their deliberation on the 941 Sandstone Drive case.

Chairman Moore asked Ms. Richter which comments is she objecting to. Ms. Richter stated that she was quoted as saying, "Kelly Richter at 249 East Ellis Avenue commented that the water problems on East Ellis have been well documented." She stated that she did say that but that she probably stated 50 more sentences. She stated that she attended the March 12, 2018 meeting to object to all three of the votes that the Plan Commission made that night. She stated that the applicants that night said that they just wanted to be treated fairly and that her questions that night were specifically to Jeff Cooper that although they were asking to be treated fairly they were really asking to be treated unfairly because for those residents who live on the south side of East Ellis Avenue do not have a sidewalk. She stated that for all new construction along the south side of East Ellis will have to pay the 'in-of-fee' for the sidewalk and they have done that. She stated that she uses the example of 201 East Ellis Avenue had to pay the in-lieu-of fee for the sidewalk. She stated that she had to pay the 'in-lieu-of' fee when her house was built yet the applicant for 941 Sandstone is saying that it is unfair that they are being asked to pay the 'in-lieu-of' fee. She stated that none of this was in the minutes and that she just wanted to make that

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clear tonight because these are the minutes that are being used for the Village Board deliberation tomorrow night and that it is important to her that she is being recorded accurately.

Ms. Barbara Shafer, 315 Minear Drive, stated that she would also like to voice her objection to the way her comments were portrayed in the March 12, 2018 Plan Commission meeting minutes. She stated that during the March 12, 2018 meeting she did object to all three conditions being lifted on the 941 Sandstone case. She stated that if the board went to the highly unusual step of inserting this very unusual language into the Resolution then they did it for a reason and that reason was to make sure that the (Tunncliff) subdivision was never abused. She stated that she wanted her comments to reflect that she didn't just say, "That was unusual" because that could be interpreted as 'it is unusual therefore the applicants should be freed from it' or 'it is unusual because the board went that extra step to prevent bad actors from predatory real estate practices,' which in fact they ended up doing. She stated that she wanted to make sure that her comments were corrected in the meeting minutes. She stated that she would like to speak on behalf of Susan Kelly, 933 Sandstone Drive, who also testified on March 12, 2018. She stated that Ms. Kelly would also like to object to how her comments were represented. Ms. Shafer stated that Ms. Kelly stated that she objected to the lifting of the three conditions of the resolution for the Plat of Subdivision for 941 Sandstone. Ms. Shafer stated that Ms. Kelly was under the impression as were they all that the lifting of the Resolution regarding the trees was for only 'some' trees that were dead when in fact they were talking about all 13 trees that remain and that is totally adverse from what they believe in. She stated that when Ms. Kelly was talking about remaining trees she was talking about the two dead trees on the corner because the purpose of the Resolution was never to preserve the dead, it was to preserve the living and there are 13 living trees on 941 Sandstone that she does not wish to see cut down.

Ms. Shafer stated that she is also here on behalf of Rod Gerber, 320 Minear Drive. Ms. Shafer stated that Mr. Gerber would also like to clarify his comments given at the March 12, 2018 Plan Commission meeting. Ms. Shafer stated that Mr. Gerber he wanted an anonymous tip line to report problems to the Village which is an accurate representation of what he said in the March 12, 2018 meeting minutes, however, but what was left out was that the tip line he suggested was for the unauthorized removal of trees.

Chairman Moore stated that there are a number of objections to the March 12, 2018 Plan Commission meeting minutes. He stated it is now up to the Plan Commission to determine whether or not the March 12, 2018 Plan Commission meeting minutes represent the issues and the nature of the case and the clear picture as to what should be recommended up to the Village Board.

Mr. David Pardys, Village Attorney, stated that meeting minutes are not drafted as or intended as a verbatim transcript. He stated that generally speaking the Mayor will allow people to speak at the Village Board meeting and he assumes that the Mayor will allow that for tomorrow night's Village Board meeting. He stated that it is possible that the residents' concerns as expressed tonight can be voiced again tomorrow night as a supplement to the Plan Commission meeting minutes of March 12, 2018. Mr. Pardys stated that if the Plan Commission believes that the March 12, 2018 meeting minutes accurately reflect the summary of what was discussed that

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night they can make a motion to approve them as they are. He stated that if the Plan Commission deems it appropriate to correct or amend those minutes they may do so as well.

Chairman Moore asked the Village Attorney how to proceed if the Plan Commission does not feel it appropriate to approve the meeting minutes as they are currently drafted. Mr. Pardys stated a discussion could be had by the Plan Commission tonight to ascertain if what they remembered is represented in the March 12, 2018 minutes or not and if necessary they can supplement the minutes. He stated that he is not certain as to whether there is a clear verbatim record of the minutes other than the recording but that is an unusual step for the Plan Commission to take as the meeting minutes are a summary of the discussion as they are not intended to be drafted in the verbatim. He stated that members of the public can supplement their thoughts at the Village Board meeting.

Chairman Moore stated that for as long as he has sat on the Plan Commission he has never seen a complete transcript in verbatim of the meeting minutes. He stated that he concurs with the Village Attorney that for those members of the public who attended the March 12, 2018 Plan Commission meeting they will have the opportunity to attend the Village Board meeting and lodge the same concerns that they had during the March 12, 2018 Plan Commission meeting.

Chairman Moore asked the Plan Commission if they are comfortable approving the March 12, 2018 meeting minutes.

Commissioner Oakley stated that a note can be added to the meeting minutes for tonight's meeting that there were some objections expressed against the March 12, 2018 Plan Commission meeting minutes.

Commissioner Flores stated that tonight's meeting minutes and the objections expressed will be prepared prior to tomorrow night's Village Board meeting. She stated that this is the urgency that the Village Board will understand the objections from the residents as provided tonight during their deliberation regarding 941 Sandstone.

Chairman Moore asked if the testimony provided tonight can be captured in the meeting minutes and forwarded to the Village Board prior to their meeting tomorrow night. Mr. Pardys stated that there will not be minutes of tonight's meeting ready for tomorrow's Village Board meeting. He stated that perhaps there can be a Staff comment prepared for the Village Board meeting for tomorrow night to reflect the testimony given tonight by the residents in addition to the opportunity provided to the public to speak at the Village Board meeting tomorrow night.

Mr. John Spoden, Director of Community Development, stated that Staff can forward a memorandum to the Village Administrator that will state what had transpired in tonight's meeting and make sure that it gets out to the Village Board so that they are aware of it for tomorrow night.

Chairman Moore stated that he will entertain a motion to approve the March 12, 2018 Plan Commission meeting minutes and note the objections given by the public tonight and that a

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memorandum will be prepared by Staff to convey said objections and forwarded to the Village Board prior to the Village Board meeting tomorrow night.

Commissioner Flores moved, seconded by Commissioner Pyter, to approve the March 12, 2018, Plan Commission meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS:

PC 18-02 Paul Swanson, Applicant
213, 317, 403, and 417 S. Butterfield Road

Request is for a Final Plat of Subdivision in order to Subdivide 7.6 acres of land into 15 single family lots for property located in an R-5, Single Family Residential District.

Chairman Moore stated that at the conclusion of the last meeting on this case there were a substantial number of questions asked and answered and a significant amount of ground was covered. He stated that he is asking the petitioner to address any of those remaining concerns and for the members of the audience in attendance tonight to keep their questions and testimony to new material only rather than to rehash those issues that were discussed multiple times over the course of multiple meetings.

Chairman Moore stated that the petitioner was to return tonight to discuss issues regarding the trail inside of Outlot A as well as the tree line along the southern property line. He stated that the purpose of tonight's meeting is to review the new material submitted by the petitioner. He stated that he is expecting that the presentation by the petitioner and the testimony given by the members of the public shall be limited to those items and that everyone will respect those limitations.

Mr. Matt Goodman, agent for the petitioner, stated that the two issues that came out of the last meeting that still needed to be addressed included the path inside of Outlot A and the tree line along the southern property line. He stated that they have addressed the outstanding issues. He stated that Outlot A will now have wood chip path that will be four feet in width with an additional clearance of one foot on both sides. He stated that this wood chip path will connect to a proposed hard surface path at the northwest area of the subject parcel which will eventually connect to the North Shore Bike Path located within the I.D.O.T. right-of-way. He stated that this will be a fantastic amenity for the residents of the subdivision to use.

Mr. Goodman stated that the trees that are currently located along the southern property line will be preserved. He stated that they have revised their plans regarding the storm sewer along the southern property line in order to not impact the existing trees. He stated that they have addressed the remaining comments from the previous meeting and that they are seeking a positive recommendation from the Plan Commission.

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Ms. Lisa Roti, 1212 Victory Drive, asked if the storm sewer on Lot 2 overflowed whose responsibility is it to remedy that problem. Mr. David Pardys, Village Attorney, stated that there is law that requires if the storm sewer is defective or if it is not operating appropriately then whoever owns or operates it will have the responsibility for its maintenance. He stated that the Village will require a two year guarantee from the developer following completion of everything they have installed including the public and private storm sewer facilities to make sure that they will operate and be maintained properly. He stated that if they don't then the Village will be able to exercise its right to pull the letters of credit bonds to see to it that it is done. He stated that if there is negligence in the maintenance of those facilities there is a potential for liability on the part of the party who is negligent for maintaining them.

Ms. Roti asked who is responsible for the storm sewer on lot 2 after two years. She stated that she believes that it will be a private storm sewer at that location. Mr. Pardys stated that the Home Owner's Association will be responsible for owning and maintaining that portion of the storm sewer.

Ms. Roti asked if the public has access to review the H.O.A. Declarations. Mr. Pardys stated that the HOA declarations are still in draft form and subject to further revisions. He stated that the final draft would be made available to the public before it goes to the Village Board.

Ms. Roti asked if the Village Board should review and approve the HOA Declaration of Covenants and Restrictions. Mr. Pardys stated that covenants are not typically submitted for Village Board review and approval, but he believes that the Village Board will have access to them and may make comments on them.

Ms. Roti stated that she investigated storm sewer backup or sump pump back up into her home. She stated that it will cost \$500 per year which she will obtain however this does not cover storm water that gets into her house through the window. She stated that she is concerned with the proposed development that includes two detention ponds. She stated that if the development is done properly then she has no problem with it. She stated that Mr. Swanson should be able to develop his land as he sees fit. She stated that her concern has always been the management of the storm water.

Ms. Roti stated her lot number is 11 which backs up to the proposed new Lot 2. She stated that there are a number of old large trees along the property line. She stated that she had Davies come out to talk to her and explained how the roots can be damaged and that it could take 5 to 7 years before one can see the trees slowly die. She stated that Davies indicated that if the trees were removed now it could cost up to \$12,000, but if they came back out later after the development was built and it would be more difficult to access the property it could cost double. She stated that she would like to ask if Mr. Swanson can remove those big old trees along the property line so that she would not have to deal with it after the construction was done.

Mr. Goodman stated that they have consulted with the Village Arborist and they have learned that the Village had a concern about removing the existing trees. He stated that it is his understanding that those trees along the property line were intended to be preserved.

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Ms. Barbara Shafer, 315 Minear Drive, stated that she is advocating both for Lisa Roti and for the trees. She stated that she would like to thank Mr. Swanson for his efforts to preserve trees. She stated that the Village is a Tree City USA village. She stated that she can understand Lisa's position as to what may happen to the trees on her property that could become damaged. She stated that Lisa is not the one building the houses, or driving heavy construction equipment or damaging the root system of the existing trees.

Ms. Shafer asked if it is possible to create a bond system or set aside money so that if the trees die within a five year period then Mr. Swanson would pay for the cost for the removal of the dead trees from Ms. Roti's property. Mr. Pardys stated that he has not seen that type of clause with respect to trees on someone else's property that the developer will not necessarily be affecting unless the developer has done some level of direct damage to the trees from construction.

Ms. Roti asked if the Village Arborist can come back out to look at the trees on her property. Mr. John Spoden, Director of Community Development, stated that there are two different scopes of tree regulation. He stated that the Village has an arborist contractor that has been engaged in the review and inspection process for the proposed development. He stated that he will need to coordinate with the arborist relative to the tree inspection for Ms. Roti's property.

In the matter of PC 18-02, Commissioner Oakley moved, seconded by Commissioner Flores, to recommend the Village Board of Trustees approve a Final Plat of Subdivision in order to Subdivide 7.6 acres of land into 15 single family lots for property located in an R-5, Single Family Residential District, subject to the following conditions:

1. *No construction traffic shall be permitted on Victory Drive.*
2. *Revise the note shown below the Public Utility Easement provisions at the bottom-right corner on Sheet 2 of the Final Plat of Subdivision as follows: "No fences, pedestals, junction boxes, or other appurtenances related to electrical or communication utilities can be located within the 'Stormwater Management Area Easements' on Lots 4 through 8 and Lot 10".*
3. *All trees surveyed and identified with tag numbers in Outlot A located west of the proposed Storm Water Management Area Easement shall be preserved except for a six (6) foot wide corridor shall be cleared of all dead trees, underbrush and hazards in order to install the wood chip walking path as shown per the approved plans.*
4. *The following trees, but not limited to, with tag numbers #413, #414, #415, #417, #418, #419, #564, #565, #566, #567 and #568 shall be protected and preserved, in addition to those trees designated by the Village Board of Trustees at time of adoption of the Final Plat.*

Motion carried 5 - 1.

Ayes: Moore, Flores, Oakley, Pyter, Steffe
Nays: Schultz
Absent: Krummick

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NEW BUSINESS: None.

STAFF COMMUNICATIONS AND DISCUSSION: None.

Commissioner Oakley moved, seconded by Commissioner Flores, to adjourn the Plan Commission meeting.

Motion carried 6 - 0.

Meeting adjourned at 7:41 p.m.