MINUTES
COLUMBUS PLAN COMMISSION
WEDNESDAY MAY 5, 2004 AT 4:00 P.M.
MEETING HALL, CITY HALL
123 WASHINGTON STREET
COLUMBUS, INDIANA

Members Present: John DeLap President, Shirley Todd, Steve Ruble, Dave Fisher, Mike Gillespie, Patricia Zeigler, Jack Heaton and Joan Tupin Crites.

Members Absent:

Staff Present: Roger Hunt, Planning Director; Heather Pope, Sondra Bohn, Thom Weintraut, Tiffany Strait, Planning Department; Tom Finke, County Plan Commission liaison, and Alan Whitted, Deputy City Attorney.

LIAISON REPORTS

Written reports were received and discussed.

CONSENT AGENDA

Minutes of March 3, 2004 meeting.

SU-04-03: SILVER OAKS HEALTH CAMPUS-A request by Trilogy Health Services, LLC to rezone 2.22 acres from I-2 (Medium Industrial District) to SU-17 (Special Use District-Nursing Homes) located approximately 716 east of Central Avenue; adjacent to the southeast corner of Central Avenue and Chapa Street, more specifically 2011 Chapa Drive, Columbus, IN.

Mr. Hunt stated that the consent agenda has Silver Oaks, which was also on the regular agenda in March. He said the reason it was here this month was in addition to the special use site plan the property was in need of rezoning. He said the project is exactly the same.

Mr. Whitted also noted that there was a scrivener's error in the publication.

Mr. Bonnell opened the meeting to the public.

There was no one to speak for or against this request.

Mr. Bonnell closed the public meeting.

Motion: Ms. Zeigler made a motion to approve the Consent Agenda. Mr. Gillespie seconded the motion and it carried unanimously.

OLD BUSINESS REQUIRING COMMISSION ACTION

None

NEW BUSINESS REQUIRING COMMISSION ACTION

MP-04-01, SYCAMORE BEND PRELIMINARY PLAT, By Estate Development Corp. is a proposal to create 88 residential lots totaling 35.4 acres. The property is located on the southwest corner of the intersection of Taylor Road and CR 300 North in Columbus Township.

Mr. Weintraut presented the background information on this request:

Prior to the submission of this subdivision, the developer and the surveyor sat down with staff to review all aspects of this project. Therefore, when the petition was filed, there were few, if any real surprises and staff had little difficulty reviewing the request, despite the number of comments made during the Subdivision Review Committee meeting. Many of the comments that were made are technical in nature or simply a reminder for what should be forthcoming with final plat approval. However, there are issues that require plan commission review and/or decision.

Access to this subdivision will be gained through two major entrances: the primary entrance will be off of the newly extended Taylor Road and the secondary entrance will be off of Marr Road. These entrances, however, are located at approximately 550 feet south of CR 300 North. Drive and intersection separation distances on an arterial are required to be 600 feet by the city's subdivision control ordinance. This will require relief by the plan commission. Staff has no objection to allowing the modification.

All lots are proposed to be served by local interior streets. The street configuration has been approved by city engineering. However, the developer is requesting relief from a minimum tangent length of 100 feet on the reverse curve along Arrowwood Drive and allowing a turning radius less than the required 200 feet along Taylor Drive. As long as the fire department has no issue with the modification, staff does not object. Staff will require the developer to obtain a written statement from the fire department on this issue.

Street names should be closely examined. In section 16.24.190, the ordinance clearly states, "The names of streets shall not duplicate or too closely resemble, phonetically or in spelling, the name of any existing street name in Bartholomew County, Indiana". The plan commission should look at the street names listed below and make any suggestions. Staff recommends that the petitioners and staff work together to find additional street name choices and make final selections that will be approved at the final plat stage.

Within the Sycamore Bend Subdivision, there will be a total of 88 lots; 44 in Phase I and 44 in Phase II. Average lot size is 13, 924 square feet. The lots and lot layout meet the ordinance with regards to lot size, lot width, shape, etc. This subdivision will tie into Arrowwood to the south to create better traffic circulation between residential communities.

The City Engineer's Office has reviewed the drainage plan and finds it an acceptable proposal. The developer will be required to submit a DNR approval permit for the storm water drainage into Haw Creek.

City Utilities has reviewed the proposal and has no objection to the layout of utilities.

Currently, there are sidewalks situated along the newly constructed Taylor Road. The subdivision calls for sidewalks along both sides of the interior subdivision streets. Those

sidewalks will then connect with Taylor Road sidewalks and People Trail connection across Marr Road. Sidewalks will be required along Marr Road, south of Marr Drive to property line. A modification for no sidewalks will be required along Marr Road, north of Marr Drive and along CR 300 North.

A landscaping plan will be required for Sycamore Bend. As of the writing of this staff report, no plan has been submitted.

Staff has no objection to this subdivision. However, all staff comments must be adequately addressed, a subdivision improvement agreement must be submitted and the improvements must either be built or a financial guarantee must be submitted.

E.R. Gray with E.R. Gray & Associates and F.A. Buck Ritz, P.E. represented the petitioner.

Mr. Ritz stated he was representing the developers Don Dilly and Robert Vinson. He introduced the development team, which consists of E.R. Gray, Land Focus from Indianapolis, and Marty Mann from Land Water Group and retained a technical engineer firm from Indianapolis that will be doing soil analysis.

Mr. Gray said they had been working on the project for a year. He said they had worked with staff, the various consultants that are on the team to arrive at this point. He stated they were in agreement with staff comments. Mr. Gray said they were asking for some modifications and would be working closely with planning staff and the engineer's office.

Ms. Zeigler stated the color photos were very helpful explaining to the board members what was happening at the site. Ms. Zeigler asks that the sidewalks be explained on the site. Mr. Weintraut said that this subdivision calls for sidewalks along both side of the interior subdivision streets. Those sidewalks will then connect with Taylor Road sidewalks and People Trail connection across Marr Road. Sidewalks will be required along Marr Road, south Marr Drive to the property line. Mr. Ruble also said there was a reverse curve and they were asking for relief from a minimum tangent length of 100 feet on a reverse curve (Arrowood Drive) and turning radius (Taylor Drive) less than required 200 feet. He said they have no problem with that, as this is an internal circulation road, as long as the Fire Department agrees.

Mr. Fisher asked if the parcel north of 300N and west of Taylor Road would ever be developed, would staff be comfortable having granted sidewalk relief along 300N. Mr. Ruble stated that part of this situation exists because there is going to be a roadway project planned in the area. He said if the developer would install sidewalks along Marr and 300N they would have to be removed within a year's time. He said that the section involved is without any curves, has shoulders and a ditch. He said the right of way has already been acquired which is more than what would be required for them to dedicate. Mr. Ruble said there is no place to put the sidewalks for that section.

Mr. Bonnell opened the meeting to the public.

Mr. Wendell Ross expressed interest in the drainage plan. Mr. Gray said this would be a storm sewer system; it's a closed system, and not a dry well system. It will discharge directly into Hawcreek. It is a storm drainage system, there will inlets in the roads tied into a plastic or a concrete piping system.

Ms. Michelle LaBonte stated it was her understanding that the subdivision would be open to a variety of builders and asked what type of homes would be built there. Mr. Ritz said they would be single family, custom-built homes with reputable builders, and the dollar area would be in the two hundred thousand range and market conditions will dictate accordingly.

Mr. Bonnell closed the meeting to the public.

Mr. Kittle asked how the drainage of this subdivision would affect the development to the west and the drainage problems that exist there. Mr. Gray said that Hawcreek was to the west of the proposed subdivision and that is national division and they will be discharging directly into the Hawcreek Creek. Mr. Gray stated that this was the natural divide.

Mr. Fisher asked what the timetable was for the different phases of Sycamore Bend. Mr. Ritz said they anticipated the project would be developed in two stages, the first will be started this summer with 44 lots and the second phase would be constructed until after the new Marr Road is installed which is now in the planning stages.

Mr. Heaton made a motion to approve this request with staff comments and relief from the three modifications listed. Mr. Fisher seconded the motion and it carried with a vote of 9-0.

MP-04-04, SCHWARTZKOPF/PATTERSON MINOR SUBDIVISION, By David Schwartkopf, is a proposal to create 2 lots and 1 agricultural remainder totaling 39.10 acres. The property if located on the southeast corner of the intersection of CR 250 South and CR 475 West in Harrison Township.

Mr. Bonnell stated that a letter had been written from Rik Sanders on behalf of the applicant formally requesting withdrawal of this request from the agenda without prejudice for the petitioner.

Mr. Ruble made a motion to approve the withdrawal of this request without prejudice. Mr. Kittle seconded the motion and it carried with a vote of 9-0.

AD-04-01; AMENDMENT TO ZONING ORDINANCE REGARDING BOARD OF ZONING APPEALS AUTHORITY TO GRANT CONDITIONAL USE FOR CHURCHES IN SPECIFIED ZONING DISTRICTS-An amendment to the Columbus Zoning Ordinance initiated by the Columbus Plan Commission, to allow the Board of Zoning Appeals to grant conditional use permits for church use in agricultural, residential, and industrial zoning districts.

Mr. Roger Hunt presented the background information on this request as follows:

As we discussed at our January meeting, the staff has prepared an amendment to the zoning ordinance that would add an alternative method for churches to gain zoning approval from the city if they wish to locate in areas other than those where they are allowed by right. As you know, the discussion was triggered by Little Rock Ministries January petition for rezoning to allow their church to locate in the Bartholomew Industrial Park.

Right now, the only zoning districts that allow churches are all business districts (RB through B-5), the SU-1 (Church) district, and (if specifically authorized), PUDs. This means that the only practical alternative for a church wishing to locate outside a business area is to apply for a

rezoning to SU-1. This process has served the city well in most cases. However, there have been times in which its less than desirable to remove a particular type of zoning in order to allow a church, the Little Rock Ministries petition being the most recent.

On the other hand, the Comprehensive Plan does not support the idea of churches (or other non-industrial uses) in industrial *parks*. Even here we have made appropriate exceptions B two recent examples are the East Columbus Independent Fire Department in the Bartholomew Industrial Park, and the PAL Football facility at Walesboro. Exceptions notwithstanding, available industrial park properties are not very abundant, and Columbus cannot afford to lose an industrial prospect because the right property was occupied by a different use.

The above examples deal with churches in industrial locations, but we could undertake a similar analysis for churches in residential and agricultural areas. The essential points are that: (a) neighbors with different uses may be appropriate, but buffering and site details can often make the difference; and (b) sometimes its a bad idea to rezone property when a less-permanent alternative is better. The conditional use mechanism is better than rezoning at accomplishing both goals.

The BZA conditional use process has been used for decades in Bartholomew County=s jurisdiction, and has served the county well. Most of the county's churches are located on properties that have been reviewed and approved by the county BZA with various sets of conditions. (There are a small number of legally non-conforming county churches that have existed since before the zoning ordinance and have not needed to make changes since.)

If adopted, this amendment would not do anything to change current zoning or land-use regulations for any church in the city's jurisdiction. All churches zoned SU-1 would stay that way, and no churches in the business districts would need to go through the conditional use process. This amendment would offer an alternative that's not currently available.

The Little Rock Ministries petition gives us a good example of how the conditional use can be preferable to rezoning. If the church outgrows its industrial-park location, or just decides to seek a different home, the underlying zoning does not go away when the church does. That property will be zoned SU-1 until someone petitions for change back to I-3. Although its highly unlikely that such a petition would be denied, the rezoning process is a minimum of two months long and the outcome is never a guaranteed certainty. This can be enough to discourage a new industrial prospect that we might otherwise land. If Columbus tells a prospect to wait two months but (for example) Franklin has a building and property ready to go, that could make a major difference. A conditional use leaves the underlying zoning intact, so as soon as the conditional tenant moves out, a permitted by-right tenant can move in (provided standard approval details such as site plan and building permits are in place).

Staff recommends that the Plan Commission pass this amendment to City Council with a favorable recommendation.

Mr. Heaton asked if this was requested due to the churches rezoning that had occurred in the past. Mr. Hunt sated that it triggered the discussion, but there had been discussion in the zoning rewrite a concerning this issue. Mr. Heaton stated that if this amendment had been in place that request would have been heard by the BZA. Mr. Hunt said that would have been his recommendation.

Mr. Kittle asked if this would weaken the process to ask for special use variance or special use rezoning. Mr. Hunt said it would give us the tool that has been targeted at these specific situations. He said the assumption is that if you are doing a permanent land use change the correct zoning should be in place. He said the conditional use is to deal with specific circumstances. Mr. Hunt said he would recommend to applicants if you want to apply for a condition use, but if rezoning would be more appropriate he would advise them of that.

Mr. Fisher said that when Little Rock Ministries appeared before the Board he stated that there should be a way that a conditional use could be provided and the response was unfortunately there is not. Mr. Fisher stated that he supported this request, however he had a couple of concerns. He said as a public servant he did not think they had done a very good job either as a Plan Commission or as a City Council in dealing with the particular matter that was brought to our attention. Mr. Fisher said that this is an ideal solution to the Little Rock Ministries situation. It would allow them to go to the BZA, ask for a conditional use variance, which the BZA could grant with a time frame, and for periodical review before the Board. If the land was needed for industrial use the conditional use could be denied at the review. Mr. Fisher said that people who are control and responsible for these things for our community allowed that to get to City Council where there was a tremendous amount of political pressure applied to cause a very bad zoning choice. He said the decision made was not in best interest of long term planning in our community. Mr. Fischer also questioned what would have happened if this had been a flower shop, a shoe store, home school, etc.

Mr. Gillespie said that in some regards there were two positions that came to mind. He said he understood that this was a non-profit tax-exempt group that has purchased the building that would affect the tax base. He said the other issue was if the church was told they could not buy this property for the intended use that would have been discriminatory. He said these were responsible people and would have a positive effect on that community. He said he thought it would be wrong to delineate between this group as opposed to anyone else. He said there were examples of churches in other towns and cities where buildings like this have been taken and used effectively. He stated that perhaps on one side of the issue there was discriminating against a church and felt uncomfortable doing that.

Ms. Zeigler stated she was opposed to that. She said in planning they have been concerned about where there would be industrial and residential zoning. Ms. Zeigler stated that years ago mixed neighborhoods were popular. She also stated that when this entity to take an industrial park parcel, the reverse is we have residential area and someone wants to place a business or an industrial parcel there will be a group of people upset regarding this request. She said it was her feelings that the line should have been held both ways. She said we have been trying to hang onto the industrial property that now exists. Ms. Zeigler stated she was concerned about the safety issue with the semi trucks. Ms. Zeigler also questioned if the owners knew the zoning when the property was purchased. Ms. Zeigler asked how that could be improved in the future. She stated that it was important that the public be more informed and it was our job to teach them.

Mr. Fisher said that planning at its fundamental level planning, zoning, and organizing is what it is all about. He said that it was important that good things happen routinely because there has been considerable thought put into it. He said he support this request as it was a far better plan than the rezoning that had happened with the church.

Mr. Hunt reminded the Board that they needed to be cautious regarding industrial entities and neighbors that are non-industrial. He said there were several examples in staff report that shows churches next to industrial parcels that have served no harm. He also stated that Silver Oaks, which had just been approved, is next to an industrially zoned property at the airport. Mr. Hunt said there are ways that those can be made compatible.

Mr. Ruble asked when there is a special use variance filed would there be any type of technical review that would apply to this process. Mr. Hunt said yes, it would still go through the site plan process that was in place now. A site plan would accompany the application and it would be very similar to the one that now is filed with special use rezoning. Mr. Ruble ask if church was defined anywhere. Mr. Hunt stated that they do not and he would prefer not to define it until we have a more federal definition, as it would apply to some case law. Mr. Hunt said he had not seen a successful definition of a church in any zoning ordinance that covers all the bases.

Mr. Ruble said that churches now have many types of uses such as daycare, recreation facilities; all of these might fall under the definition of a church. Mr. Hunt said when a church use is considered under a SU-1 rezoning, the SU-1 conditions states that any of the auxiliary activities are to be just that and should be in support of the church as a function. If it grows to something else then it would become a different land use and need to go through a separate process or rezoning. Mr. Hunt stated that if the request goes before the BZA and had different components other than a central church mission it would be in the form of a different filing.

Mr. Bonnell opened the meeting to the public.

There was no one to speak for or against this request.

Mr. Bonnell closed the meeting to the public.

Mr. Kittle asked what would happen if the BZA approved a request for a church and the time limit was expiring, would it be any easier for them to deny the request at a later date. Mr. Hunt said about 80% of all BZA cases has had a review process and they would have the ability to deny the request.

Motion: Ms. Zeigler made a motion to approve this request. Mr. Gillespie seconded the motion and carried with a vote of 9-0.

DISCUSSION ITEMS

None

REPORTS & RECOMMENDATIONS

None

DIRECTOR'S REPORT

Mr. Hunt thanked the Planning Staff for their hard work during his medical leave. He also reported that Mr. Paul Zucker, a planning management consultant who had worked in the department previously, would be re-evaluation department needs and issues at the Mayor's request.

ADJOURNMENT: 5:10 P.M.