

Plain City Commission
Minutes of Meeting
April 11, 2024

Plain City Planning Commission met in a regular meeting at City Hall on Thursday, April 11, 2024, also accessible via ZOOM beginning at 7:00p.m.

Present: Chairman Jenkins
Commissioner Maw
Commissioner Neil
Commissioner Faulkner
Commissioner Skeen
Commissioner Ortega

Staff: Tammy Folkman, Dan Schuler

Attendees: Alan & Vicki Tebbs, Keith Russell, Con Wilcox, Kevin Jordan,
Landon Howard, Michael Phillips, Jeff Hales, Rick Scadden

Zoom Attendees: Alesa Shelby, Barry Gittleman, Theresa Russell

Welcome: Chairman Jenkins

Pledge of Allegiance: Commissioner Neil

Moment of Silence/Invocation: Commissioner Skeen

1. Roll Call: Chairman Jenkins directed roll call. Commissioners Maw, Ortega, Skeen, Neil, Faulkner and Chairman Jenkins were all present.

Opening Statement: Chairman Jenkins

2. Ex Parte: Chairman Jenkins had a conversation with Jeff Hales about the S-Curve Patio Estates.

- 3.

4. Public Comments: none at this time

5. Approval of Meeting Minutes for March 28, 2024

Commissioner Faulkner motioned to approve meeting minutes for March 28, 2024. Commissioner Maw seconded the motion. Commissioners Maw, Neil, Skeen, Faulkner and Chairman Jenkins voted aye. The motion carried.

6. Technical Review Report: none at this time

7. Legislative Items:

Discussion/Motion: Final approval for S-Curve Patio Estates approx. 2825 W 2575 N 25 lots- Jeff Hales
Chairman Jenkins asked Mr. Hales if he had been approved for a conditional use permit in 2022. Mr. Hales indicated that was true. Commissioner Maw mentioned it was approved but did not have a development agreement. Mr. Hales said the development agreement just came up. Commissioner Faulkner mentioned it was part of the ordinance and it is why we are asking for it. Chairman Jenkins stated that we have two motions, he is wondering if we really need a motion on the conditional use permit or can the development agreement be done in the final approval motion. Commissioner Neil indicated they are two separate items so

Plain City Commission
Minutes of Meeting
April 11, 2024

we should do them separate. Chairman Jenkins mentioned there was some concerns about the development agreement. Dan stated this was a developer's agreement not a development agreement. The development agreement will spell out what is private and what the HOA will maintain and what the city would maintain. He said our ordinance supports a development agreement. Chairman Jenkins is wonder if Mr. Hales can take a developer's agreement and turn it into a development agreement. Dan indicated they are two different things. The developer's agreement follows city codes and standards. The development agreement is what will go with the development, an example of this would be an HOA. Dan would like to make sure it shows on the plat what roads are private. Mr. Hales asked if something has come up, because the developer's agreement is the same one as what was used for Town Square. He indicated that in the technical review meeting he said they were going to mirror everything that was done for Town Square. He indicated everything was good but he said what you are asking me to do now is to put something into a development agreement that will protect the city from something the city is facing now. Dan said that is right. Jeff has no problem doing this he is appealing to the commissioners on how he can continue without the development agreement. Commissioner Neil mentioned the development agreement, goes to city council and legal to look over. Commissioner Faulkner read the ordinance about *the development agreement being a negotiated document the planning commission shall make its recommendation on development agreement standards to the city council*. She said if we say what the development agreement should contain and you present it to city council it should fill the ordinance. Mr. Hales mentioned the developer's agreement spells out everything they will do as a developer and what the policy on the overlay is, now we have to add things to it. Commissioner Faulkner mentioned that there has been an issue in another development concerning private and public roads, she suggested Mr. Hales get with Dan to work out the details for the development agreement. Mr. Hales did say on the plat it will show what is private and what is public on the plat. He asked about an HOA lasting forever and never expiring. Dan said that is what he would like to see, so when we are no longer here the new person will have the verbiage in the form of a development agreement to support any concerns of who owns what. Dan would like the development agreement when he sits down with the engineer to do a plan review so they have something to look at and base their comments on for the developer's agreement. Commissioner Neil mentioned the Bona Vista will serve letter, it doesn't say will serve at the top or the subdivision name. It was brought up that you need a development agreement when there will be amenities or an HOA. Dan mentioned that every subdivision has to do a developer's agreement. Commissioner Ortega mentioned may be changing the name of the development agreement so it is not confused with developers' agreement.

Commissioner Maw motioned to recommend to City Council final approval for S-Curve Patio Estates approx. 2825 W 2575 N with the contingency that the development agreement is prepared and updated for city council and public works review. Commissioner Neil seconded the motion. Commissioners Maw, Neil, Faulkner, Skeen and Chairman Jenkins voted aye. The motion carried.

Discussion/Motion: Conditional Use Permit/Senior Overlay 2825 W 2575 N Jeff Hales
There was a no motion because this was already taken care of in 2022.

Commissioner Neil motioned to make a no motion Commissioner Maw seconded the motion. Commissioners Maw, Neil, Faulkner, Skeen and Chairman Jenkins voted aye. The motion carried.

Plain City Commission
Minutes of Meeting
April 11, 2024

Discussion/Motion: Preliminary approval for Bar W Ranch approx. 3625 N 4475 W 8 lots- Con & Jerilyn Wilcox

Keith Russell is here representing Con Wilcox for the Bar W Ranch. Chairman Jenkins asked if Keith had seen the notes from our engineer. Keith indicated he had seen them. He mentioned the March 21 memo and they had updated their plan and resubmitted and got comments back from our engineer on April 2. Keith indicated they were just comments, he said one of the comments talked about Sage Creek sewer, he indicated they have nothing to do with that. He said they are a neighboring property; they are just waiting for the sewer to be installed to the property line so they can hook into it. He stated they are not involved in any changes that need to be made. He said it is a waiting game. He did say without that they will not have sewer. Keith also mentioned they just want to get preliminary approval so they can move forward and get their final drawings done. Commissioner Neil mentioned the Diamond E project and how long it took for them to get sewer, he thought it was over 16 years. He mentioned the developer had to keep coming in to renew the application because it had expired. Commissioner Faulkner asked Dan where Sage Creek was in their sewer development. Dan indicated they have not gotten water approval, he said they are still trying to work through the problems. He said it has been sitting idle for about 3 months. Commissioner Neil asked about the access road that would go to the Bar W subdivision. Dan stated it is not paved; they need to get some things figured out first. Commissioner Faulkner mentioned despite all the issues with Sage Creek if Mr. Russell and Mr. Wilcox want to move forward knowing you can't move forward until the issues are figured out, if you want to bear that burden. We can't tell you what to do but there is a timeline. She just wanted them to make sure they know they cannot move forward until the other issues are taken care of. Keith mentioned they will not bring a final plat until the memorandum from April 2 has been completed. Keith asked how long the approval would be for. Commissioner Neil mentioned it was for one year and they would have to reapply but not pay the fee. Commissioner Skeen asked what they are doing about secondary water, he said before you can get culinary you have to have secondary water. Keith did say there are water shares and he mentioned doing flood irrigation. Con mentioned he and his wife are owners of the property and he indicated he has a 154 shares of irrigation water. He also mentioned Phase 2 was nothing more than a conceptual plan, he is only developing 8 lots. Commissioner Faulkner mentioned calling Phase 2 a remainder lot so it can be developed later. Commissioner Maw mentioned the new subdivision ordinance and wondered if Keith knew about this. Keith said he knows about it but has not read it. Tammy said she will send him a copy of our ordinance and application. Keith is wondering if the new ordinance will affect them. Dan indicated as long as they don't submit a final, they won't be on the clock until they submit a completed application. Commissioner Skeen stated as far as the plat goes it looks good, he said the only issue was the 30 lots for one phase and having only one access. He is wondering how adding 8 additional lots will work with that requirement. Keith mentioned he read the ordinance and it says each phase cannot have more than 30 lots. Commissioner Faulkner mentioned that not more than 30 lots are in the fire code. Commissioner Maw liked that there were flood plain lines on the plat and the distance on the property from the flood plain lines. Keith asked if there was an exception to the ordinance of 30 lots with one access. Commissioner Neil is concerned about when the first access will be built. Keith mentioned they are optimistic about Sage Creek getting things done so they can move on with their project.

Commissioner Faulkner motioned to approve preliminary for Bar W Ranch approx. 3625 N 4475 W 8 lots- Con & Jerilyn Wilcox. Commissioner Maw seconded the motion. Commissioners Maw, Faulkner, Skeen and Chairman Jenkins voted aye. Commissioner Neil voted nay. The motion carried.

Plain City Commission
Minutes of Meeting
April 11, 2024

Discussion/Motion: Conditional Use Permit/Senior Overlay for Brynlee Acres approx. 3459 W North Plain City Road- Rick Scadden

Chairman Jenkins stated this is to go over the development agreement. He said to his knowledge it looks like all the changes have been made. Dan would like 6.7 taken out of the agreement, and on the plat make sure it says private road. Commissioner Neil brought up the second access which is not a second access. Rick said he would adhere to the 30 lots. Commissioner Neil mentioned that we should request what JDC is proposing, he would like to see JDC's plan. Rick did say he has had three meeting with JDC and they are aware of where his road is. Dan mentioned reading the definition of the second access and it says it only needs to be twenty feet wide. The fire code states a second access only needs to be twenty feet wide for a fire emergency. Commissioner Faulkner mentioned the problem is we are relying on the fire code and if we want it different, we need to get it into our ordinance so we are not relying on the fire code. Chairman Jenkins indicated we do not have this in our code and we are referencing the fire code and it says twenty feet for the purpose of an emergency, so do we make Rick wait before he can exceed 30 lots. Dan mentioned he has a second access for a fire access. Dan supports what Chairman Jenkins is saying but we have to go off of what is in the fire code. Rick did say he has met with both Weber Fire and the Plain City Fire Marshall and they would like to see red curb all along the road and make it a one-way out. Chairman Jenkins mentioned based on what they said earlier they are eliminating needing to build a second access. Rick did say the road is coming.

Commissioner Maw motioned to make a no motion. Commissioner Skeen seconded the motion. Commissioners Skeen, Neil, Faulkner, Maw and Chairman Jenkins voted aye. The motion carried.

Discussion: Swimming Pool Ordinance

Chairman Jenkins thanked Tammy for putting this together for everyone, he did say we have the longest swimming pool ordinance around. Commissioner Maw mentioned the issue with the 25 feet, he said he did not know where that came from. Commissioner Neil mentioned the commissioners did it a long time ago. Commissioner Faulkner is asking is there a reason it has to be 25 feet. Commissioner Skeen mentioned if you are on a corner lot, the lot right next door can have it within 5 feet but the corner lot has to be 25 feet on the rear property line. He said the building inspector mentioned that on #4 it says *It shall not be less than 30 feet from any neighbors dwelling or 20 feet from any side lot line of an adjacent vacant lot.* He mentioned that you already have 30-foot requirement from a neighbor's dwelling why do you need 25 feet from the property line. Tammy said that the inspector mentioned maybe we need to address odd shaped lots in our ordinance. Commissioner Skeen indicated if you are not on a corner lot you can be 6 feet from the property line as long as you are 30 feet from an adjacent neighbor's dwelling or 20 feet from the vacant lot line. This corner lot issue is 25 feet from property line no matter what on the rear which is kind of weird. This is a rear setback not a side setback. Commissioner Faulkner is in favor of making the rear setback shorter, she does think that 30 feet from a dwelling should still apply. Commissioner Ortega said if we remove #7 *On a corner lot where the rear lot line is coterminous with a side lot line of an adjoining lot, it shall be located not less than twenty-five feet (25') from such lot line;* we will still have 30 feet from the road. Chairman Jenkins stated they will have a self-closing gate with a 6-foot fence. Dan mentioned it is a weird shaped lot and doesn't meet requirements of the ordinance. Chairman Jenkins mentioned if we eliminate #7, will that address the issue of odd shaped lot? Dan feels we need to spell something out for corner lots, he wondered if we have looked at other cities to see what they are doing for a corner lot. Commissioner Skeen said most of the other cities just say if it is a corner lot in a side yard the accessory building ordinance applies to the pool. Commissioner Faulkner is wondering if we want to make it the same as our accessory building ordinance. Commissioner Maw liked that idea. Commissioner Skeen mentioned that it would still have to be 30 feet on a corner lot and

Plain City Commission
Minutes of Meeting
April 11, 2024

rear set back could be 5 feet but it still has to measure 30 feet from a neighbors dwelling. Chairman Jenkins read the ordinance; it says *it shall not be less than 20 feet from any neighbors non livable area*. Commissioner Faulkner felt we should follow the accessory building rules in addition to the 30 feet from the primary dwelling. Chairman Jenkins indicated as it stands today you build an accessory dwelling unit 5 feet off the property line; your neighbor can do the same so you would have 10 feet? Commissioner Faulkner said that is correct. Right now, you cannot do it with a pool the way the ordinance is written. Chairman Jenkins feels we should match the accessory dwelling ordinance. Commissioner Neil was wondering where you measure from. Commissioner Skeen said usually from the water's edge. Chairman Jenkins is wondering if we need to eliminate #5 *It shall not be less than twenty feet (20') from any neighbors' non livable area, which includes, but is not limited to, the garage, carport, or storage areas*; Commissioner Faulkner is wondering why #5 matters. Commissioner Skeen mentioned the ordinances from other cities have a non-livable and a livable in their ordinance. Everyone agreed it needs to be more like our accessory building ordinance. Chairman Jenkins mentioned this is just on the agenda for discussion only, he said we have another two weeks to read through some of the other city's ordinances and see what we like and don't like. There was more talk about where to measure the edge from. There was talk about having 6 feet of skirting or hard surface. Chairman Jenkins mentioned if we were to match the DADU and did a 5-foot setback of the back property line. If we said that is to the foundation of the hard surface then you would have an additional 6 feet that would give you 11 feet from the back property line. Dan mentioned you would be able to see where the hard surface is when they bring their plan into the office. He thought it was a good idea to measure from the hard surface. Per the discussion Chairman Jenkins feels we should measure from the water's edge. He also would like to put on the next agenda to set a public hearing to change the ordinance. Commissioner Faulkner was wondering if the Tebbs could speak. Alan Tebbs talked about meeting with our attorney on a variance and then going to city council, he indicated city council told him to come to planning and talk about the ordinance. He feels like if #7 was taken out of the ordinance they would meet all the requirements. They are 14 ½ feet from the property line from the water's edge. Commissioner Maw was thinking we could eliminate #7 so the Tebbs could go forward and build their pool. Alan mentioned the attorney was at the city council meeting and the attorney said he researched the state code and he couldn't find anything about #7 that we have in our code. Alan mentioned the attorney couldn't see any reason why it was there. Vickie indicated they did not get their variance because of the swimming pool code #7. Commissioner Faulkner talked about the process we would need to go through to get this ordinance changed, she said it could take a month to do. Commissioner Neil mentioned we may have another option; it is called a pending ordinance. He said we would have six months to accomplish it, he indicated at the next meeting we can make the change and call it a pending ordinance then they can go forward with the pool after the ordinance has been approved and get the building inspector to approve the application.

8. Administrative Items:

Discussion: New Subdivision Ordinance and New Application

Chairman Jenkins asked Tammy if she was looking for feedback on this ordinance. Tammy mentioned the development agreement needs to come with the subdivision application to make it a complete application along with the other requirements. Commissioner Skeen mentioned this process is not much different than before. They can bring in their application and if it is not complete, we let them know and they can do this four times then it either is accepted or denied. Commissioner Faulkner feels it will take pressure off of us. Commissioner Skeen said planning will check over the plan to make sure nothing is missing, if there is something missing there will be correspondence sent to the developer to make changes to bring in things that

Plain City Commission
Minutes of Meeting
April 11, 2024

might be missing. We have a time limit of 15 days to look over everything. When it goes back to the developer, they have 20 days to make changes and have it back to us. If they take more than 20 days, we get 20 days as well to respond, that can go 4 times then it has to be approved or denied. If it is denied they can appeal to city council. Commissioner Maw mentioned if he were on city council he would send the appeal back to the land use authority which is planning commission. Commissioner Faulkner indicated we are denying it because of an ordinance, the city council should back us up on that. Commissioner Maw mentioned the city council has approved something we have denied in the past. Commissioner Faulkner mentioned city council is not bound by the ordinance. She feels like the state is trying to eliminate the political, it is the ordinance. There was a discussion about the geological report ordinance and it says *the city is exempt from limits on the number of permitted review cycles*. Tammy mentioned 11-8-10 Review: *The Land Use Authority shall review all subdivision applications under this Chapter in accordance with the requirements of this Section before approving or denying a subdivision application. The review process begins when an applicant submits a complete application. The Land Use Authority shall not review an incomplete subdivision application, except to determine whether the application is complete.* Tammy didn't think this made sense. *After the applicant submits a complete application, the Land Use Authority shall review and provide feedback to the applicant in up to four "review cycles."* Chairman Jenkins clarified if the application is not complete you don't start the 4 review cycles yet. Tammy asked everyone to get familiar with the ordinance, she has made up a check list for the developer as well as a packet with all the ordinances in it that they will need. Commissioner Faulkner is confused about the motions we will make. Tammy thought it would be a discussion until the 4th cycle where it would be approved or denied. She said it will go to Dan and our engineer first, but she is wondering when planning looks at it. She is wondering if she should send it to planning at the same time she sends it to the engineer. Planning would like it to go to Dan and our engineer to look at it first and when the memorandum comes back then planning would like to see it. Commissioner Skeen feels like the first review cycle will go through the office and then on the second cycle it will go to planning with the memorandum. Commissioner Skeen made a comment the cycles don't start until the application is complete. Everyone was wondering how we will track the application. Tammy mentioned she does have a checklist to track things. Everyone agreed they would like to see all the engineer's memorandums. Commissioner Skeen asked Chairman Jenkins if we could put the arterial road on for next meeting, it will go in the public works standards. Commissioner Neil was looking at 11-8-10 he said it does talk about the land use authority doing a lot of the review.

9. Report from City Council: Commissioner Skeen

Commissioner Skeen mentioned that Sunset Estates was approved at city council. There was discussion about a new program for submitting building applications as well as a fee schedule change, they were approved. City Council gave River Crossing Phase 1 final acceptance as well as S-Curve Phase 2,3. There were some residents from Stillcreek still concerned about the road issues. Commissioner Skeen brought up Brynlee Acres, and that we tabled it. There were a couple things planning wanted to look at, the fire lane and second access a couple of the councilmembers mentioned they don't like that. He mentioned the councilmen did say they would like letters from the Fire Marshall showing they did get approval from the fire department. He did say the mayor talked about doing another overlay so we could have more density so there would be more affordable housing throughout the city.

10. Commission Comments:

Commissioner Ortega mentioned that he had a conversation with Jake and Ashley Hannum he wanted to know their concerns about the head lights at the drive thru at FIIZ, they said a hedge doesn't block the lights, the lights go out and it is shining on their house the whole time someone is at the drive thru. Commissioner

Plain City Commission
Minutes of Meeting
April 11, 2024

Ortega is wondering if the hedge could go all the way across to block the car lights. The Hannums did say they get more light from Kents. Commissioner Ortega mentioned that the Hannums got a notice that they had to turn off their barn light. He said they are getting all the lights from the Kents shopping center and they have to turn off their barn light? He didn't know you could require that without a dark sky ordinance. He did say the biggest problem for them is trash blowing onto their property from the garbage dumpsters. Dan did bring up the light in the back yard, he said it was very bright. The Hannums did fix it. He indicated he gave the dollar store a notice of violation because of their dumpster not being on their property and not enclosed. Commissioner Skeen feels we need to patrol that business area heavily. Commissioner Ortega asked when Warrens was going to start building. Tammy said they have brought their plans in and the building inspector is looking at them. Commissioner Skeen would like to know what the rear setback is for the assisted living. Dan said it is 10 feet. Commissioner Neil mentioned that 154 shares of water is not much for 8 lots. Commissioner Maw has information on dark sky ordinance if everyone would like it, he has reached out to international dark sky chapter, but he has not heard back from them. He would like them to come and do a presentation for us. Chairman Jenkins asked Dan when they are going to pour the asphalt on 4425. Dan said it is planned but not sure when it will be done.

11. Adjournment

Commissioner Maw moved to adjourn the meeting at 9:43pm. Commissioner Faulkner seconded the motion. Vote: Commissioners Maw, Neil, Faulkner, Skeen and Chairman Jenkins voted aye. Motion carried.

City Council Meeting: April 18- Commissioner Ortega

2024					
JENKINS	ORTEGA	MAW	NEIL	FAULKNER	SKEEN
JAN 4	JAN 18	FEB 1	FEB 15	MAR 7	APR 4
MAR 21	APR 18	MAY 2	MAY 16	JUN 6	JUN 20
JUL 4	JUL 18	AUG 1	AUG 15	SEP 5	SEP 19
OCT 3	OCT 17	NOV 7	NOV 21	DEC 5	DEC 19

If you are unable to attend on your assigned night, please make sure someone goes in your place



Planning Commission Chair



Planning Commission Secretary