PLANNING COMMISSION
Regular Meeting
Tuesday, September 29, 2015

Mr. Paul Clark called the meeting to order at 7:30 p.m.

ATTENDANCE

Present: Paul Clark, Amy Korenyi-Both, Jim Durham, Kevin Von Handorf, Robert Muzechuk, and Jim Briggs. Also present were City Planner Andrew Rodney, Municipal Attorney Scott Liberman, City Engineer Jim Brinegar, Planner Mark Yandrick and Assistant Clerk of Council Julie Weaver. Councilmember John Palcher also attended.

Absent: Bill Etson.

EXCUSE ABSENT MEMBERS

Mr. Clark stated Mr. Etson had notified him that he would be absent.

MOTION: Mr. Briggs made a motion to excuse the absence of Mr. Etson. Ms. Korenyi-Both seconded the motion. The motion passed 6-0.

APPROVAL OF MINUTES

No additions or corrections were noted for the minutes of the Planning Commission meeting of August 25, 2015.

MOTION: Mr. Briggs made a motion to approve the minutes of the Planning Commission meeting of August 25, 2015, as distributed. Mr. Von Handorf seconded the motion. The motion passed by a vote of 6-0.

OPENING STATEMENT

Mr. Clark read the Opening Statement concerning protocol for public hearings.

PUBLIC HEARINGS

Application P-2015-0039: Preliminary Development Plan for The Villas of Centerville on Chardonnay Drive – Applicant: Raj Grandhi, Rootstown Real Estate, LLC

MOTION: Mr. Briggs made a motion to remove the application from the table for consideration. Ms. Korenyi-Both seconded the motion. The motion passed 6-0.

Mr. Rodney presented an updated staff report for Application P-2015-0039. Mr. Raj Grandhi and staff had continued to work toward the resolution of conditions staff had recommended for the proposed preliminary development plan for twenty single-family homes and three open lots on 3.4 acres of the 38 acres between Alex-Bell Road and Versailles Drive in an area zoned R-PD.

Mr. Rodney shared general background on elements of the plan using aerial views, the zoning map and photos of existing conditions. He gave an overview of the approval process and shared a brief history of the development which began in 1987 with a plan by Chadonnay Valley for single family homes and high rise condos. Only the ten French Manor Condominium homes were ever built. Plans for Woodbrook Lakes and Brookstone Terrace were submitted, but they were not constructed. Currently, Mr. Grandhi proposed infill along Chardonnay Drive and one lot on Grenoble Drive. Mr. Rodney said it was his understanding that a master association existed with the French Manor Association being a sub-association. He discussed the steep topography, density, lot sizes, setbacks, open spaces, mounding, grading, flood plain and other basic elements of the plan. All twenty lots required access onto Chardonnay Drive, with construction traffic split between Chardonnay Drive and Versailles Drive. The developer did not name a builder and or propose specific models of homes; these items were not required with the submittal of the preliminary development plan. Mr. Rodney noted HOA issues and the encroachment of several existing homes across lot lines. He went over the Standards of Approval of Article 5.09 (G)(1) and stated the degree of compliance was sufficient at this stage of the process. Staff recommended approval of the preliminary development plan, subject to the following 16 conditions:

1. Any proposed roadway extensions or further lot development beyond what is proposed as part of this Preliminary Development Plan shall require an amendment to this Preliminary Development Plan.

2. Homes adjacent to Alex-Bell Road shall be single-story dwellings.

3. Prior to the issuance of zoning and building permits, Versailles Drive shall be repaired to a navigable condition to the satisfaction of the City Engineer.

4. Construction traffic shall be limited to Versailles Drive for Lots #7-15, and Chardonnay Drive for Lots #1-6 and 16-21.

5. A Homeowner's Association or other legal regime shall be established or re-activated to the satisfaction of the Municipal Attorney for the perpetual and consistent maintenance of all common areas.

6. Minimum front building setback shall be 25 feet from the edge of pavement along all streets and shared driveways.

7. The lot proposed as Open Space (Lot #14) shall be owned by the homeowner's association or other similar legal regime, or dedicated to the Centerville-Washington Park District, to ensure perpetual and consistent maintenance.

8. Prior to the issuance of zoning and building permits, all encroachments of existing buildings across property lines shall be corrected via record plat to the extent practicable.

9. Proposed home style, architecture, exterior materials, size, and design shall be consistent with the existing homes along Chardonnay Drive.

10. A set of building design standards shall accompany a Final Development Plan submittal which – at minimum – prohibit the use of vinyl or aluminum as the predominant siding material, and minimize the appearance of blank or featureless walls on corner lots.

11. The Applicant shall provide a Traffic Impact Study at the Final Development Plan stage to calculate trip generation expected by the proposed development and any recommendations of the TIS shall be incorporated into the Final Development Plan at the discretion of the City Engineer.

12. The final design of stormwater management infrastructure and individual lot drainage systems shall be in accordance with Article 9.35 of the UDO.

13. Parkland shall be dedicated and/or a fee-in-lieu paid in accordance with Article 9.47 of the UDO.

14. Development shall adhere to all floodplain development regulations as stipulated in Article 9.37 of the UDO.

15. Detailed comments from the Engineering Division will follow and shall be incorporated into the final development plan, record plan, and construction documents as appropriate subject to approval by the City Engineer.

16. Detailed comments from Montgomery County Water Services and utility companies will follow and shall be incorporated into the final development plan, record plan, and construction documents as appropriate subject to approval by the City Engineer.

When Mr. Clark asked for an explanation of the requirement for single-story homes along Alex-Bell Road, Mr. Rodney said homes with a lower profile would look better, and the mounding would provide better protection for the residents from the activity on Alex-Bell Road. Mr. Clark also questioned whether a repaired Versailles Drive would be open for general use or only for construction traffic. Mr. Rodney said that was yet to be determined.

Mr. Clark opened the public hearing.

Mr. Raj Grandhi, 10708 Falls Creek Drive, stated he wanted to build a subdivision within the framework required by the City to the benefit all the parties. He noted the attorney for the French Manor condo group recently asked him to rescind his application. His understanding was that he had the right of ingress and egress from each end of Chardonnay Drive. In response to a question from Mr. Clark, Mr. Grandhi said he was agreeable to the sixteen conditions recommended by staff. He was willing to do extra as long as the expense was not too much.

Mr. Von Handorf asked about the bike path in the Park District's Multi-use Trail Plan that was shown to run through the property. Mr. Grandhi responded that a large amount of undeveloped land remained which potentially could be used to provide for a multi-use trail.

Mr. Jeff Gammell, 7925 Paragon Road and attorney for homeowners of the French Manor Condominium Association, wanted to know whether the proposal was for a fee title project. He discussed the details of the HOA structure, stressing that the Chardonnay Valley Master

Association was an association of "one or more condominium associations together with community property" and that French Manor was the one sub-association. Since the condo development began in 1988, the seven-year time period for construction and expansion expired in the mid-nineties. According to Mr. Gammell, the Master Association had been turned over to the condo unit owners of French Manor, who had elected a trustee. Mr. Gammell also noted that Chardonnay Drive belonged to the condo unit owners, who had right-of-way and easement for ingress and egress. Mr. Gammell stated the owners were open to discussions with the developer.

Mr. Durham clarified Mr. Gammell represented eight of the ten condo unit owners. Mr. Durham and Mr. Liberman agreed that the City should not be the mediater of the issues between the condo owners and the developer. Mr. Liberman stressed that the applicant had to show he had access from the lots to public streets.

Mr. Matt Springer, president of the French Manor Association and a resident at 6848 Chardonnay Drive, expressed confusion that the City shut down a previous plan because the homeowners and the applicant could not agree, but Mr. Liberman had declared that this current dispute was between the developer and the homeowners and the application could go forward. In response, Mr. Rodney said his review of the Brookstone case and minutes showed that the development plan was denied by Planning Commission because of density to the east of the lake and issues related to steep slopes; Mr. Durham, a member of the Planning Commission at that time, concurred. He clarified that the applicant in the Brookstone case had decided not to proceed with the public hearing at Council after Planning Commission recommended denial.

Mr. Springer stated he was new to the area and only recently elected. He asked for larger lots than shown on the plans, similar square footage to existing homes and architectural details that would support current home values. He felt more greenspace was needed and asked how a developer could put twenty additional homes on three acres. He asked the developer to fix the roads that's were his and maintain the pond. He noted that the unit owners had paid for treatment and aeration of the pond.

Mr. Jerry Jackson, 6827 Chardonnay Drive, disagreed with statements made by Raj Grandi of Rootstown in the project narrative included with the application. It claimed the existing streets were maintained by the master association, when, in fact, most of Chardonnay Drive was maintained by the French Manor Association. He said the northern end of Chardonnay Drive, Grenoble and Versailles Drive were the sole responsibility of the developer. He explained the membership and structure of the two associations and said new homeowners would not automatically become members of the Chardonnay Valley Master Association, because membership was reserved for condominium unit owners.

Mr. Jackson also stated that the thirteen sample floor plans were neither specific enough nor compatible in size, design and construction with the existing homes. He felt the developer did not have the right to unlimited use of Chardonnay Drive for construction traffic. He said the French Manor Association would decide when and if Mr. Grandhi could use the roadway for construction traffic. He asked the Planning Commission to reject the application.

Mr. Liberman reiterated that the issues between the developer and the condo association residents had to be addressed prior to the submittal of a final development plan, as stated in

Condition 5. Mr. Clark verified with Mr. Liberman that the Planning Commission could make a decision on the case at this time.

Mr. Durham voiced confusion that individuals were speaking after the statement from their counsel. These were not just neighbors, they were represented by an attorney.

Patricia Koenig, 6919 Chardonnay Drive, treasurer of the French Manor Association, said she lived in an all brick home of 2000 square feet with a 2-car garage and described the compact nature of the area. She worried about parking and the traffic with an increase in the number of homes on a street 0.2 mile long and only twenty-six feet wide. She asked the developer to return to the drawing board.

Cindy Springer, 6848 Chardonnay Drive, asked Planning Commission to require that the general atmosphere of the subdivision be maintained. She asked for consideration of the reasons people had bought these specific homes. She said the quality and the location of the proposed homes were her concerns. She said she was not against development, but she did not want the houses crammed together.

Mr. Grandhi stated his understanding of certain items did not coincide with what he was hearing from the condo owners and their attorney. He explained he had gotten an easement deed when he purchased the property that included unconditional access from both ends of Chardonnay Drive. Montgomery County had told him he could utilize fee simple lots. Although planning to offer homes consistent in square footage and lot size with the existing homes, he could not guarantee what people would choose to purchase. Covenants for the new homeowners association would spell out restrictions and responsibilities that were harmonius with the ones for the condo association. He said that master association documents spell out its responsibility for maintenance of the pond and the streets. He stated that no one had asked him to maintain the pond, and he was paying for mowing in areas he felt should be the responsibility of the condo association.

Mr. Grandhi said many of the items discussed by the unit owners were changes that came at the time he purchased his land or after. He mentioned the encroachment of several of the homes onto his lots. He felt the new homes could be beneficial to the current residents with more families to help cover costs. He said he was desirous of working with the unit owners, and as a gesture of cooperation, he had agreed to fix the road, even though it was not his responsibility.

Mr. Gammell apologized to the Planning Commission that he had advised his clients to speak. He reiterated Mr. Grandhi did not have a legal basis for homes with fee simple titles. He stated that two of the ten property owners were holdouts for changing the governing of the condo association to fee simple status and that the approval had to be unanimous. As to access, he stated that Mr. Grandhi's lots were not landlocked because he owned all the surrounding property.

Mr. Clark closed the public hearing.

Mr. Liberman pointed out that a court case might be required to sort out the access and association issues.

Mr. Durham pointed to the encroachments and the access as major issues. He did not think the preliminary development plan should go to Council without resolution of these items. Mr. Rodney stated the record plan could not be revised to deal with the encroachments without a development plan and the conditions included agreement on these issues prior to submittal of a final development plan.

Mr. Muzechuk noted the situation was complicated by conflict within the condo association and between the condo association and the developer. He agreed these issues should be worked out before the development plan moved forward. Ms. Korenyi-Both encouraged the newly elected trustee to work for resolution of the problems to everyone's benefit.

Mr. Briggs defined the choices facing the Planning Commission. He felt the Planning Commission should do what it could to move the plan forward, while making the conditions clear and staying out of the rest of the issues. Mr. Von Handorf agreed.

MOTION: Mr. Briggs made a motion to recommend to Council the approval of Application P-2015-0039, a Preliminary Development Plan for the Villas of Centerville, subject to the sixteen conditions recommended by staff. Mr. Von Handorf seconded the motion. The motion to approve failed in a 3-3 vote. Mr. Durham, Mr. Muzechuk and Mr. Clark voted no. The recommendation to Council was denial of the Preliminary Development Plan.

Application P-2015-0045: Variance Allowing Both Projecting Signs and Ground Signs at Shoppes I, 5299 Cornerstone North Boulevard – Applicant: Robert Hall

Mr. Rodney explained the proposed sign package for Shoppes I at 5299 Cornerstone North Boulevard, a multi-tenant building along Wilmington Pike, just north of Dille Drive in an area zoned B-PD. The UDO permitted ground signs and wall signs, but not ground signs and projecting signs. Ground signs were planned for the Wilmington Pike frontage, and the projecting signs were proposed for the east façade of the four tenant space. Because of the proximity of Cornerstone North Boulevard, wall signs would be difficult to read from the street and the sidewalk. The projecting signs were more pedestrian friendly. Mr. Rodney described the materials, shape, size and placement of the requested projecting signs. The triple frontages, the reasonable size of the projecting signs, and the required 10' setback were factors in favor of the variance. Staff recommended approval of the variance, subject to the following six conditions:

1. Projecting signs shall be located solely along the east façade.

2. The quantity of projecting signs shall not exceed the total tenant count within the building.

3. The general design of the projecting signs shall be in conformance with the plans dated September 18, 2015 and included herein.

4. The maximum sign face area for each individual projecting sign shall not exceed 6.6 square feet.

5. The total sign face area for each tenant space shall not exceed the calculated sign area permitted by the UDO.

6. Wall signs on the east façade shall be prohibited if a projecting sign is present.

Mr. Durham suggested adding "for wall signage" at the end of Condition 5.

When Mr. Clark opened the public hearing, Mr. George Oberer, Jr., of Cornerstone Developers, 3745 Newmark Drive, said he was available to answer questions. Mr. Clark asked if similar situations might arise elsewhere in Cornerstone North, and Mr. Oberer responded in the affirmative. Seeing no other speakers, Mr. Clark closed the public hearing.

Mr. Durham asked about the need to change the sign ordinance to the equivalent of a variance for buildings with curbside frontage. In response to a question about including the item in the development agreement, Mr Liberman said it was not possible to grant a variance in a development agreement. Updating the ordinance would be necessary.

MOTION: Mr. Durham made a motion to approve Application P-2015-0045, a variance for projecting signs and ground signs for the Shoppes I at Cornerstone North, subject to the six conditions recommended by staff and with the addition of "for wall signage" in Condition 5. Mr. Briggs seconded the motion. The motion passed 4-2, with Ms. Korenyi-Both and Mr. Muzechuk voting no.

OLD BUSINESS

Application P-2015-0038: Record Plat for Martin Land Development Group
2601 Alex Bell Road
Applicant: David Alexander for 2610 E. Alex-Bell Road

MOTION: Mr. Durham made a motion to remove Application P-2015-0038 from the table for consideration. Mr. Briggs seconded the motion. The motion passed 6-0.

Mr. Rodney explained the applicant had requested the item be tabled for an indefinite period of time. Negotiations were ongoing for the sale of the property with multiple potential buyers. Mr. Durham was not in favor of granting the extension, because the plat in the application was for a specific configuration and use by a specific buyer. He felt the City had expended staff time equivalent to the filing fee. Ms. Korenyi-Both felt the fees should not be a factor in the decision; she suggested tabling for three months. Mr. Briggs was in favor of granting a two month extension, because the site had been vacant for a considerable time and was challenging for development.

MOTION: Mr. Briggs made a motion to table Application P-2015-0038, the Record Plan for Martin Land Development, for two months to the November meeting. Mr. Muzechuk seconded the motion. The motion passed 4-2. Mr. Clark and Mr. Durham voted no.

NEW BUSINESS

Application P-2015-0043: Record Plan for Cornerstone Lot 1-B Replat
Applicant: Robert Hall, 5381 Cornerstone North Boulevard

Mr. Rodney presented the staff report for a record plan to create two lots on the 1.8778 acres of the former Milano's site, north of Feedwire Road, west of Charles Drive and east of the proposed Cheddar's Restaurant. The lot on the eastern portion was the parcel for a Panda Express; the user for the western portion was unknown. Mr. Rodney pointed out the cross access easements, the stormwater easement, a backflow easement, and a meter pit for landscape irrigation. He said staff had no issues with the plat and recommended approval without conditions.

Mr. Clark asked for clarification of the cross access easement for the western portion of the lot split.

When Mr. Clark asked for comment from the applicant, Mr. George Oberer, Jr., representing Cornerstone Developers, Ltd., stated he was available to answer questions. Seeing no other speakers, Mr. Clark closed the public comment.

MOTION: Mr. Durham made a motion to approve Application P-2015-0043, the record plan for 5381 Cornerstone North Boulevard. Mr. Briggs seconded the motion. The motion passed with a vote of 6-0. No conditions were attached to the approval.

Application P-2015-0044: Record Plan for Cornerstone North Section Six—Village Center
Applicant: Robert Hall, Cornerstone Developers, Ltd.

Mr. Rodney gave the staff report for the record plan for this 6.3 acre parcel north of Costco and east of Cornerstone North Boulevard in the area reserved for the village center. He pointed out easements for water lines, storm drainage, sewer lines, temporary access and a turnaround. This parcel was Lot 4 on the record plan for Section 5 reviewed in July. It was removed from the approved part of the plat because of concerns that the site plans for the layout of the of the village center and of the park were incomplete. Mr. Rodney stated that Planning Commission specifically requested a site plan for the village and more detail for the park prior to or at the time of the submission of the record plan. A site plan for the village center was not expected until October. Therefore, staff recommended that this record plat be tabled.

Mr. Clark opened the public comment and invited Mr. Oberer to speak.

Mr. George Oberer, Cornerstone Developers, Ltd., 3475 Newmark Drive, Miamisburg, took exception to the recommendation of staff. In other instances, the City had approved record plans and had allowed replatting as necessary. He was confident that the submission showed what would be developed; his staff was working on the major site plan. Although City staff wanted more detail on the park, he said the site plan for the park was never expected to be completed until Phase 6 or 7. Mr. Oberer saw no valid reason to hold up the platting; it was needed because it would add value for debt service. He asked for a definitive vote with specific reasons given, if the motion was defeated.

Mr. Briggs saw no harm to the City in approving the record plat, since a replat could be done at a later time.

MOTION: Mr. Briggs made a motion to recommend to City Council the approval of the record plan for Cornerstone Section 6, as submitted. Ms. Korenyi-Both seconded the motion. The motion passed by a vote of 4-2. Mr. Clark and Mr. Durham voted no.

Rules of Procedure

Mr. Rodney noted that Planning Commission had passed Rules of Procedure earlier in the year, but, later in the same meeting, asked for the addition of the stipulation that Planning Commission members receive materials and staff input prior to work sessions when new projects were presented. This current revision of the Rules of Procedure would require that applicants give staff information at least one week prior to a work session in order to allow time for staff to evaluate the submittal and brief Planning Commission.

MOTION: Mr. Durham made a motion to adopt the Rules of Procedure, as distributed. Ms. Korenyi-Both seconded the motion. The motion passed 6-0.

COMMUNICATIONS

Mr. Rodney reported that a light Planning Commission agenda was expected for October. A site plan for the village center at Cornerstone was the only major agenda item known at this time.

Mr. Rodney introduced Alisha Hammond of the Engineering Department.

ADJOURNMENT

Mr. Clark noted that the next meeting of the Planning Commission would be on October 25, 2015 at 7:30 p.m. in the Council Chambers and adjourned the meeting.

Paul Clark

Mr. Paul Clark
Chair of the Planning Commission