

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
1**

Ch. Kamps called the public meeting to order at 7:00 pm.

Roll found: Kamps, Pope, Pajk, Walrath, Ascherl and Siarkowski present. Mr. Powell was absent. Trustees Rhodes, Garapick and Schulte also in attendance as well as 29 guests in the audience.

Ch. Kamps read the proposed amendment and also read into the record the Medina County Planning Department staff comments on the proposal. (see attached)

Clerk Garrett read the legal ad.

Trustee Rhodes addressed the hearing.

Trustee Rhodes: The inspiration for this proposal that the land in a conservation development needs to be contiguous came about from the most recent election. I am not happy to have to present it. I feel that it is necessary for discussion in order to slow down the criticism of what we are doing here today. If you go down to Medina and talk to other township residents that are active in their communities, you will hear the praise for Hinckley Township's conservation policies. Our policies are being emulated across northern and central Medina County. They praise us for having the courage to save land. Politicians have been talking about saving land for a long, long time. Hinckley Township was the first to do it. The chances of this happening again in Hinckley are very, very slim. Ten or twenty years from now a sensitive piece of property could become available. If we pass this amendment, we have eliminated the possibility of saving that piece. The staff report stated that we must be careful in what we take away from our zoning; we may just lose an opportunity in the future. This is my feeling on it. I think that we have reacted to people who made a lot of noise about this. It is in front of you now – and you need to consider it. Thank you.

Mr. Ron Garapick: Saving land is one of the main opportunities that we should be concerned about and try to protect. However, trading some building rights for a parcel of land that may or may not be developed profitably and trading those building rights based on acres should be something we should be concerned about. Another thing that we could institute on these sensitive lands is to have the developer provide an environmental impact study of what it would do to those lands if they did develop it. But, just taking gross acres and saying you can put so many lots on it and then trading that I think has some questionability to it. I do not know how to resolve that but it is something we need to look at. If the land is that sensitive and hard to develop it may not be developed, probably. And, you would not have to give up x amount of lots, so, I think that it is a complicated issue and that it can't be resolved very quickly. So, I like to save land but it has to be regulated so it is real beneficial to the residents of the township and the landowners too. But, if it's too expensive to build on it, they probably won't do it anyways. So, I do not know how to go to it, I am interested in learning what you all have to say and ideas. I will formulate my decision from there.

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
2**

The discussion was opened up to the public at this time.

Resident, Martha Catherwood: Thank you for addressing this issue and I agree wholeheartedly with what Mr., Garapick just said. I would like to see the number of homes that are within a conservation district and I ask that you continue reviewing that. We are all learning about the conservation easement. To clarify, the number of homes that are allowed to be built on the 2 acre – the density. Right now three homes are allowed on a two-acre parcel in a conservation development.

Ch. Kamps: The way the code reads, there is 3 houses allowed on one acre of property, but it is still a one house per 2-acre density.

Mrs. Catherwood: That is my concern. When you get that one acre with three houses on it, it is not what we envision for the density. Thank you.

Unidentified resident: In a Conservation Development, one of the requirements is water not well – is that correct?

Ch. Kamps: We do not have that specified in the zoning code. The way the code is written is that the Zoning Commission has the authority and the requirement for reviewing the entire project to see whether it is worthy of calling it a conservation area or whether it should just have plain and simple – 2 acre lots. Within that, there is about 15 different criteria that we look at to make that judgment along with consultant's information from environmental entities and within that we look at water, wells, and public sewers. The one that was just approved has city water and public sanitary sewers. It was a very ideal situation. In the case of a conservation development with septic systems we would have to really review the permitted number of houses in a confined area. There would be consultations with the health department on how to best handle the sewage. With septic systems, three houses on a one-acre parcel would not work well. There are a couple of parcels in town that are wide open farms fields that would not be conducive to a conservation type project.

Unidentified resident: An assumption that a developer can build a conservation development wherever he may want is not a correct assumption?

Ch. Kamps: That is correct.

Mrs. Pajk: At this time, none of our zoning is tied to the availability of sewer and water.

Ch. Kamps: The connotation of having sewers tied to housing developments could lead to developers trying to break our zoning, trying to put houses on half-acre or smaller lots.

Resident, Lynn Bullock: How did the ruling on the case on the far east side suburb, where the lot size was challenged and the developers prevailed, have an effect on what

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
3**

we would like to prevent or have in Hinckley?

Ch. Kamps: That particular case has not been totally adjudicated yet. Moreland Hills, so far, has won the suit. But, my understanding is that the developer has discovered some new information that they felt was not heard by the supreme court. I understand that it is going back to court. We are actively watching this case.

Unidentified Resident: The past Trustees have done a wonderful job building up our surplus, new fire stations, town halls without affecting our taxes. We have a nice nest-egg; this might be one of the areas where the township would like to spend some of that money for if that what it comes to.

Ch. Kamps: It was estimated that the Wakefield court settlement would have cost the township about \$70,000 to defend. As it was, the township's attorney negotiated a bargain and Wakefield currently has a density of one house per two-acres, although some of the houses are on lots that are less than a quarter acre, the total density is one house per two acres. This is where the conservation development in Hinckley originated. It saved 150 acres along the Rocky River corridor.

Unidentified resident: Mr. Rhodes, what is the balance of our available money?

Mr. Rhodes: If you have read the report you will see there is about \$3,000,000, but, expendable for what you are talking about we might have \$100,000 to \$200,000. It is limited. Most of the money we have in the account is your tax money that you voted to help the fire department grow, and that money can only be used for the fire dept, same with the police department, can only be used for that purpose. The money that we have as what you might call "expendable income" is derived from the general fund. We get about 4 mils. It is non-voting, appropriated by Medina County. We do a lot of work around the township with that money. It is not that much that we have to expend on a large lawsuit.

Ch. Kamps: The sewage system was a big factor in the deal. That whole development (Wakefield) does have city water and sewers. It is not a detriment to the environment.

Gary Fadorsen: Is conservation development the only type allowed now?

Ch. Kamps: No sir. It is just one of the many tools we have to work with. The conservation development allows the builder some flexibility. The other choice is the minimum two-acre lot.

Bruce Schneider: A developer can approach your board and request a conservation development if they have over 100 acres regardless whether they have septic, well or city water? Therefore it is up to you as a board to decide whether or not to allow this type of development because if it is septic, that affects the water supply, If it is wells, well that is just as bad. So if it is on the books, they can build it?

Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
4

Ch. Kamps: Our conservation language as written, gives the board the requirement of reviewing all the factors involved and determining whether the proposed conservation development would be appropriate. We do not get that privilege on a regular 2-acre development.

Unidentified resident: What about the taxes on those 2-acres?

Ch. Kamps: The open space of a conservation development is taxed at a slightly reduced rate.

Unidentified resident: What about walking on the conservation property? Can we even use it? It will be going back to the wild, going back to nature?

Ch. Kamps: We ask that the developer not cut trails, no paved or graveled trails. People walking on it is okay. It would defeat the purpose of the open space. The owners do have the privilege of walking on it. No ATV's, no timbering, no houses. The permanent open space will have other entities signing on the easement to help insure that the open space stays open. The piece that is different is the non-contiguous piece down on Rt. 303. Hinckley Township owns that, it is public property. Anyone can walk on that land. The Township's full intention is to not develop that property in any manner, with the exception of an earthen walking trail along the edge of the river.

Mr. Garapick: I just wanted to say one thing about the conservation area that you were talking about at Walden Pond. That property does have a 5-year agreement with a farmer to allow farming.

Ch. Kamps: Yes, that is correct. The farmer has a long-term contract on that property when it was purchased. The farmer has a reasonable right to recoup some of the costs of what he may have added to the soil.

Mr. Garapick: The tax value of the acreage on Rt. 303 and Rt. 606 the land was in CAUV and very little tax money was received on that to begin with. As far as maintenance, I do not envision much maintenance that will need to be done there. There will need to be signs put up indicating conservation areas.

Victoria Ciotta: Can the zoning board aid in encouraging the developers to build toward the back of the property? It is so we can appreciate the undeveloped part of those properties.

Ch. Kamps: Again, that is built into the conservation development criteria – which we are allowed to pick and chose – to look at the plans and approve those plans before they are finalized. The trustees as well as the zoning commission get to review the plans. We certainly do encourage exactly what you just requested. The Walden Pond Development is exactly planned that way – the houses are away from State Rd. and more towards the

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
5**

back. There may be some bigger houses, some of the roofs may stick up more that we anticipated and you may see them from State Road.

Ch. Kamps thanked the residents for attending and sharing their opinions. Being no further comments from the board or the audience, Ch. Kamps closed the meeting at 7:47 pm.

REGULAR MEETING

Ch. Kamps called the regular meeting to order at 7:53 pm.

Roll found: Kamps, Pope, Pajk, Walrath, Ascherl and Siarkowski present, Mr. Powell absent. Trustees Rhodes, Garapick and Schulte, Mr. John Fadel also in attendance as well as 29 guests in the audience.

The minutes from the regular meeting held February 2, 2006 were reviewed. Mr. Walrath made the motion to accept the minutes as presented. Mrs. Pajk second.

Vote: Ascherl–yes Walrath–yes Pajk– yes Pope– yes Kamps– yes

Clerk's Report:

The zoning report for January 2006 was reviewed.

The Medina County transfers for February 2006 were reviewed. Ch. Kamps reported that there were 8 new home permits issued in February.

New Business:

Mr. John Fadel was in attendance to present a request for a change to the Zoning Regulations - 6IA.2 to add Intercompany Distribution Warehouse to the allowed uses in this district. He has a national company that wishes to locate their truck center and terminal in Hinckley. He pointed out that the zoning across the street in Brunswick is also light industrial. This area of Brunswick does permit warehousing and motor freight garage and transfer terminals. Mr. Fidel handed out a highlighted map indicating these areas.

Mr. Fadel explained that it would be a full use truck terminal. He was not sure if it would be open both day and night.

Ch. Kamps explained that the Board will accept his request and forward the proposal to the Medina County Planning Agency for their recommendations. Their meeting will be held on April 5, 2006. We will get a faxed response the very next day in time for the public hearing that will be set to hear this request on Thursday April 6, at 7:00 pm. Ch. Kamps asked Mr. Fidel to bring any other pertinent information to that meeting.

Mr. Garapick: What exactly is the business? Is it an LTL trucking company, is it a truckload carrier?

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
6**

Mr. Fadel: It is a transfer terminal. They will bring in equipment and redistribute it.

Mr. Garapick: It is dry cartage? Flat bed steel haulers?

Mr. Fadel: No, all enclosed trucks.

Mr. Garapick: Will you do warehousing or just transfer?

Mr. Fadel: Intercompany transfer, some warehousing.

Mr. Garapick: Like a USF Holland, Roadway or Yellow?

Mr. Fadel: Yes. Just like that.

Mr. Garapick: How many vehicles?

Mr. Fadel: I can't say how many they will operate at any given time.

Mr. Garapick: How many doors will be built?

Mr. Fadel: I think there is forty. I want to be clear that right across the street Brunswick could give them the license tomorrow. I am looking to develop the property in the best way possible. I am familiar with Great Lakes. It is a nice facility, a good public company. Glaser's property has fifty-four doors there. They are operating all sorts of business there. I think you will find that I will have a very professional building, very well kept, Hinckley would be very proud of this location. There will be no service of trucks there, no underground tanks, no fuel storage. There will be no bulk handling outdoors, all will be indoors. There is no exterior storage and no hazardous materials. That is restricted in the lease as well. At this time the proposal is for the building to be located on the south side of the street. We have considered the north side. The layout of the building fit better on the south side without disturbing the wetlands.

A resident inquired about the type of street surface and whether it could support the truck traffic.

Mr. Fadel stated that the road is built to heavy truck traffic standards and there is heavy equipment traveling on that street currently going to and from the Glaser property.

Mr. Garapick asked for the name of the trucking company.

Mr. Fadel indicated that at this time he could not disclose the name but assured that it is a national firm with an excellent reputation.

Ch. Kamps stated that the public hearing to obtain the public's opinion on this issue will

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
7**

be held on Thursday April 6, 2006 beginning at 7:00 pm and it will be followed by the regular monthly zoning commission meeting. After that meeting, the board will make their recommendation to the trustees, forward all the information to them. The trustees will schedule their own public meeting at that time.

Mr. Fadel stated that the building will be leased to the trucking company and that he would own the building.

Three Acre Proposal:

Trustee Ron Rhodes stated that townships need diversity – something for everyone. Many things change in the state in the county in the last few years and the biggest answer to these changes is diversity. If your township has diversity you are less likely to be sued and you are more likely to get away with three-acre lots. How do you create that? Conservation developments are one way you are allowing in certain instances certain specifications. You are not disallowing someone to put a smaller house on a smaller lot. And, you are doing this is a way that keeps the density still at two acres but you satisfy what the courts would say if you were being prejudicial. We are not being prejudicial because we are allowing it. We have areas where you can build on smaller lots. We have diversity. We have areas where we allow conservation development; we have areas where we allow $\frac{3}{4}$ acre and one-acre lots, R2. And the rest of the township is R1, where we have 2-acre lots. We cannot prevent growth but we have been fighting to keep it slow. Mr. Rhodes pointed out that Hinckley has been the slowest growing of all the surrounding townships as far as population. Since we can't have three-acre lots everywhere, I have some maps that have suggested areas on them to show where these different areas could be located. About 1/3 to 1/4 could be zoned 3-acre lots; The zoning commission can take one of these suggestions or draw their own. As far as the setbacks for a house, the sidelines and frontages do not need to change. These are merely suggestions. Planning is not about an individual area, it is not about people, it is about 25 square miles. It is about the whole township. The board of zoning and the trustees must consider the whole 25 square miles not just certain areas. If we have the three-acre zoning, if we do it right we will have something for everybody – a builder who wants large lots, a builder that wants 2 acres and a builder that wants $\frac{3}{4}$ -acre. We will win the battle when it comes time for court because we are diverse and we are not shutting out somebody. That is the conventional wisdom today in the courts, in the state, etc. Thank you.

Old Business:

Proposed Amendment: *The total gross project area of a tract of land proposed for development shall be a minimum of 100 acres all of which shall be contiguous and which shall not include the area within the existing public street rights-of-way.*

Mr. Walrath made a motion to forward the recommendation to the Trustees as proposed.
Mr. Pope second.

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
8**

Discussion:

Mr. Walrath: I believe this is a tool that may be used infrequently but it is a tool that I wouldn't want to give up. There are very few parcels in the township that would be appropriate for this type of development transaction but we would be foolish to take that option off the table.

Mrs. Pajk: I agree with Mr. Walrath. It is a good tool to have. I would like to see more stringent criteria in deciding what we would give a developer in trade. I would like to see more studies done, so we would have some concrete information. I don't put a monetary value only on the land. A piece of land that can't be developed still can have value in terms of conservation. A swamp may have value because it is something you may want to conserve.

Mr. Pope: I agree with the others and I would like to see more stringent criteria for making swaps.

Ch. Kamps: I will reiterate that I strongly feel this is a tool to keep. This is a tool that can be offered to the development community to give them some choice and flexibility. The township legally cannot stop development. I can think of two possible locations for this type of development. We have had several compliments from professional planners and even from the Planning Department. We do have 2 other developments in Hinckley that have permanent open space. These development shave been around for over 30 years. No developers have ever tried to break this zoning.

Ch. Kamps read the proposal again for clarity: The approved amendment will state: The total gross project area of a tract of land proposed for development shall be a minimum of 100 acres all of which shall be contiguous and which shall not include the area within the existing public street rights-of-way.

Ch. Kamps further clarified by stating that a vote of "NO" will indicate not approving and a vote of "YES" will indicate approval.

Vote: Ascherl – no Walrath – no Pajk – no Pope – no Kamps- no

Ch. Kamps stated that the amendment wording and the zoning commission's recommendation that the amendment not be approved will be forwarded to the trustees for further action. This is a recommendation.

Mr. Garapick asked the board if it is their intention to pursue some sort of review process in the future.

Ch. Kamps replied that a new amendment could be formulated. Any change in the language requires an amendment. The trustees can take our recommendations and vote for approval or denial. If the trustees vote other than our recommendations it must be

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
9**

with a unanimous vote of the trustees. They can also vote to change the language. We did have a study for Walden Pond conducted by the Metro Parks, it didn't cost the Township any money, no consulting fees.

Mr. Garapick: What I am concerned about is that a certain piece of property may not be conducive to development but is pristine for conservation but the price reflects the development price. I am concerned that a developer comes in and buys that piece of property cheap and then says that he can get 20 lots on there. What if he comes to you and says that he wants to trade those 20 lots?

Mrs. Pajk: I would like us to get an outside study to see if those lots can actually be developed. We would need the approval to get an outside study conducted. Then we could tell the developer exactly what the study has shown. Then, something would be in writing to prove it, to back up the facts.

Ch. Kamps: State law allows us to hire professional appraisers, go to another developer or another engineer to survey the property. Legally, the Army Corps of Engineers or the Health Department can determine if land is unusable. At this time there is no authority for a township or a county to determine that. There is talk of enacting within Medina County riparian setback regulations. That would regulate what could be built within the riparian areas along the stream corridors. Summit County has riparian regulations of their books.

Mr. Walrath asked the trustees if they would permit the hiring of experts to conduct the studies that the board could utilize to determine the number of houses that could be built on a lot.

Mr. Garapick replied that he felt it is the developer's responsibility because he is going to be the one to have the greatest benefit monetarily.

Mr. Walrath felt that we would need a study of our own to verify the developer's figures on the number of houses.

Mr. Garapick felt that we could enlist the Army Corps of Engineers and the Soil and Water District.

Ch. Kamps replied that we could certainly use their expertise but there may be cases where the Board and the Trustees would have to enlist outside sources for expertise.

Mr. Walrath stated that it is the developer's responsibility to convince the board and trustees that this piece of property is unique enough to consider it for a conservation development.

Ch. Kamps stated that to obtain the permission to build a conservation development, the land, the basic 100 acres to start, must be worthy of the criteria set forth to consider it for conservation. There are 15 to 18 items that carefully need to be determined when

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
10**

judging the property.

Chairman’s Report:

A census report was distributed to the board indicating the population and building in the Medina County townships. Hinckley has roughly 7400 residents. Montville has just passed a development that allows lots fewer than 10,000 square feet. Montville, Brunswick Hills and Medina Township are building quite heavily especially around their borders possibly to protect from annexation.

The County Planning Commission approved a lot split in Timber Ridge Estates which begins at McKee Trail off of River Rd. A seven-acre parcel was split.

There will be a conference in Akron on April 7, 2006 on zoning. Ch. Kamps will make a request from the trustees for all board members that wish to attend.

Mrs. Pajk will be unable to attend the meeting on April 6, 2006.

Mr. Walrath made a motion to adjourn at 9:00 pm.
Mrs. Pajk second.

Vote: Ascherl – yes Walrath –yes Pajk – yes Pope – yes Kamps- yes

Patty Garrett, Zoning Clerk

Minutes Approved: _____, 2006

Jim Kamps, Chairman

Chuck Pope, Vice-Chairman

Diane Pajk, Member

Terry Walrath, Member

Calvin Powell, Member

Toni Ascherl, Alternate Member

Karen Siarkowski, Alternate Member

**Zoning Commission
Public Hearing – Conservation Developments
Regular Meeting
March 2, 2006
11**