

Plain City Planning Commission
Minutes of Meeting
December 10, 2020

Minutes of the Plain City Planning Commission Meeting held online December 10, 2020 at 7:00 p.m. – virtually broadcast via ZOOM.

Present:	Chairman	Jarod Maw
	Vice-Chairman	Blake Neil
	Commissioner	Shawna Faulkner
	Commissioner	Blake Jenkins
	Commissioner	Dustin Skeen
	Commissioner	Rob Ortega

Staff: Mike Kerswell, Dan Schuler

Attendees: Adams Family, Cody Rhees, Greg Hansen, Jim Flint, Debbie Robinson, Greg Day, Richard Skeen, Hilary Perez, Shane, Joel Maw, Rick Adams, Jim East

Welcome: Chairman Maw

Pledge of Allegiance: Mike Kerswell

Moment of Silence / Invocation: Chairman Maw

1. Roll Call:

Chairman Maw directed roll call and indicated; Commissioners Neil, Faulkner, Jenkins, Ortega, Skeen and Chairman Maw were present.

2. Opening Statement:

Chairman Maw read the Opening Statement.

3. Ex Parte Communication or Conflicts of Interest to Disclose:

Commissioner Neil reported receiving a phone call from a citizen concerned about access points associated with the Taylor Parks Three subdivision. He indicated; the caller was worried that developable properties to the west of the project will be landlocked.

Chairman Maw reported that he was contacted by Miles Robinson, advising of a recorded right of way on his property and legal actions he once initiated against a local developer and the City. Mr. Robinson expressed concern over a dedicated access, approved for the recent Circle H subdivision amendment. Chairman Maw notified that he spoke with developer, Steve Diamond about a subdivision he presented to the Technical Review Committee. He reported that he was contacted by a developer who is contemplating developing a large lot near 3900 W 3600 N. He recommended that the individual contact City Hall to arrange a Technical Review Committee assessment. He indicated that Jim East called him to discuss concerns over access and easements associated with the proposed Palmer Heritage subdivision.

4. Public Comments:

None offered.

5. Approval of Meeting Minutes for November 12, 2020

Commissioner Neil pointed out that part of the motion on Richard Skeen’s Zoning Amendment was duplicated in the item title. Land Use Specialist, Mike Kerswell agreed to correct the error.

Commissioner Faulkner motioned to approve the Meeting Minutes for November 12, 2020. Commissioner Jenkins seconded the motion. Vote: Commissioners Faulkner, Neil, Skeen and Jenkins voted aye. Motion carried.

6. Technical Review Report

Chairman Maw reported that Technical Review Committee meetings were convened, November 17 and December 1st. He described a subdivision concept presented by Steve Diamond. He reported that Nilson Homes brought a new proposal for the Diamond E subdivision. He noted that the development comprises 45 lots. Commissioner Neil indicated that the Diamond E subdivision has not made headway in the past due to a lack of sewer service to the region. Developer, Steve Diamond stated that only two cities in the area have a 400-foot rule for cul-de-sac length. He informed that most neighboring municipalities allow much longer streets to terminate in a cul-de-sac. Public Works Director, Dan Schuler explained how configurations with longer streets that terminate in a cul-de-sac create snow removal problems. He indicated that Steve Diamond’s proposed subdivision layout is acceptable because there is a breaking intersection of the road, a short distance from the cul-de-sac feature. Steve Diamond acknowledged that the mentioned stub road and resulting intersection have been deleted as project design has evolved. He proposed a reevaluation of the Plain City ordinance that restricts the length of a road terminating in a cul-de-sac. He said he would email drawings of various conforming concepts to Mike Kerswell to forward to commissioners. Chairman Maw gave details about a project the Wilcox family presented for review. He noted that access is a key issue. Dan Schuler reported that Mr. Wilcox is moving forward on the project as a single agricultural lot.

7. Legislative Items:

Discussion / Motion: Zoning Amendment – Richard Skeen Property, app. 3600 W 2200 N (A-1 to RE-18.5)

Commissioner Skeen recused himself from the Discussion / Motion. An updated plat drawing was displayed. Land owner, Richard Skeen confirmed that a new tax identification number was issued by the County, for the segment to be rezoned. He explained that the County Recorder had inadvertently issued a duplicate ID number, initially. Commissioner Neil verified that parcel 190350061 is the 2.45-acre piece listed on the application for Zoning Amendment. Mike Kerswell stated that the new number was issued today and agreed to amend the application with the applicant’s consent. Dan Schuler commented on the width of an expected right of way that borders the parcel. He pointed out that only 30 feet of the required 60-foot right of way is illustrated on the presented drawing. Chairman Maw indicated that the access will be dealt with when an application for subdivision is submitted. Project Engineer, Jim Flint clarified that the rezone is based on the existing legal description. He affirmed that all appropriate road dedications will be made when a subdivision plat is submitted for approval. Commissioner Ortega reviewed the processes for rezone and subdivision applications.

Commissioner Faulkner motioned to recommend City Council approval of the Zoning Amendment – Richard Skeen Property, app. 3600 W 2200 N (A-1 to RE-18.5), specific to parcel 190350061.

Commissioner Neil seconded the motion. Vote: Commissioners Faulkner, Neil, Ortega and Jenkins voted aye. Motion carried.

Discussion: Penalties for Violation of Subdivision Completion Time Limits, 11-3-7 D

Commissioner Jenkins indicated that a penalty is referred to in the ordinance but enforcement and fine stipulations are not clearly defined. Dan Schuler advised that a fee schedule should be added to the code. Commissioner Neil asserted that the City Council has the authority to set up the aforementioned fee schedule.

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Commissioner Jenkins remarked on past discussions about limiting the number of active projects a developer can have. Commissioner Skeen noted that the main purpose of Penalties for Violation of Subdivision Completion Time Limits is to encourage developers to complete final subdivision punch lists in a timely manner. He spoke of limited escrow funds that can be withheld. He deduced that an enhanced fine would incentivize a developer to finish one project before moving on to another. Dan Schuler indicated that escrow withholdings rarely cover the cost of finishing the deserted improvements and do not pose a financial deterrent to a derelict developer. He proposed a per-day, per item fine; similar to liquidated damages compensation. He estimated that there are approximately fifteen projects in Plain City that are past the time limit. Commissioner Faulkner surmised that instituting penalties beyond what is already in the code will not bear upon those existing, unsettled developments. Commissioner Jenkins commented on the possible exhaustion of escrow monies due to imposed penalties. Dan Schuler described terms printed on the Plain City application for Right of Way Encroachment and Excavation, specifying time constraints and penalties. He suggested assessing a late fee of \$250 per day, until improvements are complete. He remarked on penalties that may be imposed for Stormwater Pollution Prevention Plan (SWPPP) noncompliance. Commissioner Faulkner mentioned past issues with delayed completion of development amenities. She proposed referencing a fee schedule in zoning ordinances that stipulate time constraints. Commissioner Neil noted that a fee schedule was constituted in the past, when it became apparent that developers were exploiting subdivision time limit extensions. Commissioner Faulkner reiterated that loss of zoning status is a penalty currently framed in Plain City code. She read 10-6B-11 (B):

*Loss Of Zoning Status: In the event that construction is not started within the specified time limit, the **Planning Commission** shall review the classification of the zone and the progress which has taken place and, if deemed necessary, revoke the plan approval and initiate proceedings to rezone said property to its prior classification or to a zone consistent with the Comprehensive Master Plan.*

She contemplated applying the statute to land designated for the Diamond E subdivision. Commissioner Neil informed that there is an adjoining commercial area, to the east of the proposed Diamond E project. Commissioner Skeen recommended that Dan Schuler and Mike Kerswell arrange a draft fine schedule for the Commission to review at their next meeting. Commissioner Ortega spoke of regrettable hardships that may result from ordered fines, should improvement delays occur due to circumstances beyond a developer's control, such as a downturn of the economy. He submitted that a developer in violation of time limit directives should not be permitted to start another project until their belated development is completed.

8. Administrative Items:

Discussion: Site Plan – Hilary Home Daycare at Kelly's Corner, approx. 3673 W 2600 N

Business owner, Hilary Perez confirmed that the proposed location of Hilary Home Daycare is an existing commercial space, between Westside Pizza and the True Value hardware store. Chairman Maw queried about plans for restroom facilities in the daycare center. Hilary Perez indicated that she is working with an architect - Gary Hunt - to finalize an appropriate restroom design. She affirmed that separate restrooms will be provided. She explained that tenant improvements (TI) must be coordinated with the owner of the building. Commissioner Neil asked for details on a fenced, outdoor play area. Hilary Perez stated that the minimum 1600-square foot space will be overlaid with mulch and cordoned off by a six-foot fence. Commissioner Jenkins made mention of delivery vehicle traffic at the rear of the complex. He asked if consideration has been given to necessary parking and maneuvering clearance for large trucks. Hilary Perez answered in the affirmative. Commissioner Neil mentioned employee parking in the rear of the proposed business, advising that a certain number of spaces will be required. Dan Schuler commented on occupancy restrictions. He expressed concern over drop off and pickup arrangements. Chairman Maw outlined particular standards for commercial buildings with an occupancy of fifty or more. He voiced consolation that Gary Hunt will be involved with the TI plan. Commissioner Faulkner echoed Commissioner Neil's thoughts about employee parking that will apparently be forfeited for the outside play area behind the establishment. She hoped to see

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a clearer depiction of drop off and pickup arrangements. Hilary Perez pointed out some technical differences between commercial Daycare Centers and home-based daycare accommodations. She agreed to present the architect's conceptual drawings to the planning Commission as soon as he completes them. She commented on COVID-19 precautionary considerations that are part of her business plan. Commissioner Ortega conveyed information on scheduled, staggering start and finish systems, utilized by some daycare centers to reduce traffic congestion and improve safety.

Discussion / Motion: Preliminary Subdivision – Palmer Heritage, approx. 3975 W 2600

Project Engineer, Greg Day indicated that the drawing reviewed by the Planning Commission does not denote the most current version of the Palmer Heritage plat. He noted that an updated plat was given to the City Engineer, and affirmed that Commissioner comments from the previous meeting are reflected on the latest representation. Mike Kerswell affirmed that the plat provided for review is the last sent to him by developer, Cody Rhees. Greg Day summarized the update. He indicated that UDOT is working with the development company to arrange an appropriate intersection at 2600 North Street. He stated that construction drawings are needed to finalize the junction design and that completion of those construction details is dependent on preliminary approval of the subdivision. He explained that the entire road (sixty-foot right of way) through the development will be situated entirely on the Palmer property. He indicated that a memorandum on the project, from the City Engineer, was requested by the Planning Commission. Chairman Maw informed that the memorandum was provided after the previous Planning Commission meeting. Greg Day stated concurrence with items listed in the Engineer's memorandum. Commissioner Neil read from the comments:

- 2) *The Developer is proposing the standard street section be modified to omit the park strip and sidewalk on the west side of the street. It is assumed that these items will be constructed and dedicated to the City once the property to the west develops. This configuration is not likely to greatly affect the initial residents of the development since there will be sidewalk along the east side where their homes will be. However, it may prove problematic in the future, depending on how the property on the west develops. The Developer has also indicated there is a problem related to this issue with the Jim and Kathy East property. We recommend this issue be discussed with the developer by the Planning Commission.*

Property owner, Jim East commented on corner lot site development standards and informed that his property will become a corner lot, should the proposed street be constructed. He asserted; existing structures on his land will be about ten and a half feet too close to that road to comply with the code. Commissioner Neil contended that the updated plat must be provided in order to ascertain compliance. Chairman Maw stated that existing structures on adjacent parcels (and clear dimensioning) should be shown on resubmitted drawings. Commissioner Neil referred to the motion to table this matter from the previous Planning Commission meeting, emphasizing *clear and verifiable proof that an existing building located on the southwest corner of the subdivision meets setback standards* was specified as requisite to preliminary approval. Greg Day indicated that there are two existing structures on Jim East's property that will be affected by the roadway – a primary residence and an accessory building. He stated that site development standards for an accessory building allow a setback of ten feet. He made known that the intended street will be farther away than ten feet from the structure. Jim East defined the accessory building as a detached garage and acknowledged that it is eleven feet from his property line. He stated his desire for a greater separation from the new road. He surmised that the proposed street will become a major thoroughfare between 2600 North Street and 2800 North Street. He remarked on a purported petition for a variance by the developer. Greg Day indicated that a variance is not necessary because the structures in question will remain fully conforming with City site development standards (10-5A-4). He commented on intersection alignment. Chairman Maw submitted that setback requirements for corner lots differ from those stipulated for interior lots. Greg Day maintained that corner lot setbacks for Accessory Buildings are not differentiated in the code. Commissioner Faulkner noted that corner lot setbacks are purposely ascribed to prevent obstruction of view. She suggested that the City Attorney review the site development standards in the code and give direction on how accessory building setback requirements are to be applied when on a corner lot. Jim East told of a Plain City resident that was forced to move their driveway after a street that intersects a state road, abutting their lot, was approved for

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construction. He explained that he has a driveway on the east side of his property that may be subject to relocation if state road standards are not considered in advance. He reported that his garage is eleven feet away from an established fence line on the east side of his property. Cody Rhees informed that the proposed Palmer Heritage subdivision is separated from Jim East's property by a narrow strip of land owned by Dennis Rogers. He stated that his property does not share a boundary line with Jim East's plot. He questioned the application of corner lot standards to Jim East's property, as it does not directly abut the roadway through Palmer Heritage. He acknowledged that a formal application for variance has been submitted and a hearing scheduled. Commissioner Faulkner commented on the strip of property owned by Dennis Rogers, that separates Jim East's land from the proposed Palmer Heritage subdivision. Chairman Maw suggested that the dividing parcel should be shown on the plat map. Jim East stated that the precise location of the mentioned strip of land is undetermined. He indicated that a private survey shows the narrow plot on the east side of his fence, but Dennis Rogers has never had possession of it nor used it for anything, over fifty years. He clarified that the parcel is a five-foot strip. He spoke of historical fence line locations in the area, that do not line up with recorded property lines. Greg Day noted that the five-foot belt creates separation from the proposed road, such that Jim East's parcel will not be considered a corner lot. Commissioner Faulkner stated that she cannot confidently approve the preliminary subdivision until setback stipulations for existing structures on Jim East's property have been settled and questions about the affect Dennis Rogers' piece of land will bring to bear on the project are answered. She noted that the City Engineer's concerns must be addressed. Commissioner Neil stated that the Planning Commission needs to see (review) the latest version of the preliminary plat drawing before a decision can be made. He read from the City Engineer's memorandum:

- 6) *The plan shows the stormwater being piped from the development to 2600 North Street. There does not appear to be any facility for retention/detention. Recent changes to the City's stormwater discharge permit have also resulted in additional requirements for developments in Plain City. These requirements are outlined in Plain City Stormwater Management Plan (SWMP) and can be found online. ...Two of the most notable requirements are as follows:*
 - a. *The Developer must evaluate the viability of aspects of Low Impact Development (LID).*
 - b. *Unless it is shown to be infeasible, a portion of the anticipated stormwater runoff from this development must be retained in the existing detention pond.*

He assumed that stormwater retention/detention provisions are addressed on the updated plat. Chairman Maw asserted that existing structures on Jim East's property and the strip of Dennis Rogers' property should be accurately depicted on the preliminary plat. Greg Day indicated that the existing detention facility in the Heritage North subdivision – directly north of this property – will be used for stormwater runoff from the Palmer Heritage development. Dan Schuler confirmed that the pond in Heritage North was sized to handle runoff from the proposed Palmer Heritage subdivision. He advised that reasonable steps must be taken by Cody Rhees in order to satisfy state requirements for LID. Commissioner Skeen remarked on an irrigation ditch that runs from east to west through the center of the project. He asked if the ditch will be piped. Greg Day explained that an above-ground pipe will be installed along lot lines.

Commissioner Faulkner motioned to table Discussion / Motion: Preliminary Subdivision – Palmer Heritage, 3975 W 2600 N, pending a developer's response to the City Engineer's memorandum, verification that existing buildings located on Jim East's property will meet setback standards, and an updated plat identifying adjacent property owners and showing existing structures adjacent to the proposed road. Commissioner Neil seconded the motion. Vote: Commissioners Faulkner, Neil, Skeen and Jenkins voted aye. Motion carried.

Discussion / Motion: Preliminary Subdivision – Taylor Parks Three, approx. 3850 W 2200 N

Greg Day stated that the City Engineer's comments from October 15th have been addressed by the Developer and Project Engineer. He presumed that there's not been an additional memorandum generated for this development. Chairman Maw indicated that the Commission has received a memorandum for this project, dated December 3rd. Greg Day asserted that the comments from December 3rd were not forwarded to the developer. Mike Kerswell displayed the memorandum which was sent digitally to Cody Rhees on December

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4th. Commissioner Neil reflected on the first item on the Engineer's list of concerns, related to property lines and setbacks. Commissioner Faulkner reviewed the second item of the memorandum, requesting data associated with stormwater retention/detention basin capacity. Commissioner Skeen stated that he will base preliminary subdivision approval on plat parameters such as; setback standards, frontage requirements, easement matters and irrefutable property lines. He suggested that stormwater management concerns and other details will be addressed when final subdivision approval is up for consideration. Greg Day indicated that a Grant of Easement has been prepared and provided to Richard Adams, in response to the City Engineer's concern over an affected driveway and barn that belong to him. He assured that Mr. Adams will have an access easement within the Taylor Parks Three development. He made clear that the easement will not be formally granted until the plat is approved. Commissioner Faulkner read ordinance 11-5-3A (4):

b. ... block lengths in residential areas shall not exceed one thousand three hundred twenty feet (1,320') or twelve (12) times the minimum lot width required in the zoning district, whichever is less...

She maintained that the layout of this subdivision does not comply with the ordinance. Commissioner Skeen remarked on questionable terms in the presented Grant of Easement document. Property owner, Rick Adams informed that the structure for which the discussed easement has been offered, is a hay barn – built to code when it was constructed. He spoke of discrepancies between recorded property lines and historic fence lines in the area. He voiced concern that his hay barn might be deemed an encroachment on a Taylor Parks Three subdivision lot in the future. He stated that a right of way for irrigation system access has been established on the west side of his barn and in use for more than thirty years. Greg Day advised that statutory requirements for prescriptive easements involve more than the defined period of time. He noted that Mr. Adams correctly followed procedure when he filed a letter concerning the easement with the City. Rick Adams stated that he should be considered the “Grantee” of the easement, not the “Grantor”, as the easement is entirely on Cody Rhees' property. He explained that he is titled the “Grantor” in the document drafted by the developer. Commissioner Skeen reasoned that granting the easement to the Irrigation Company would allow them to provide user access. Commissioner Neil indicated that the City Engineer's submissions regarding property lines and the access easement should be addressed before the application is moved forward. Commissioner Skeen related; after preliminary approval is given, updated drawings and supporting materials will be reviewed again by the Commission, before a recommendation for final approval is passed to the City Council. Commissioner Faulkner stated; the block length in this subdivision does not comply with directives in the City code. She commented on a lot line that presumably runs through Mr. Adams' hay barn, suggesting action be taken to adjust the boundary.

Commissioner Neil motioned to table Preliminary Subdivision – Taylor Parks Three, due to unresolved items in the City Engineer's memorandum; particularly item 1, referring to a neighbor's driveway and barn that are located within the boundary of this development and noncompliance with City ordinance for Block Length, 11-5-3A (4). Commissioner Skeen seconded the motion. Vote: Commissioners Faulkner, Neil, Skeen and Jenkins voted aye. Motion carried.

Discussion / Motion: Cancel Regular Planning Commission Meeting, 12/24/2020

Commissioner Skeen motioned to Cancel the Regular Planning Commission Meeting, 12/24/2020.

Commissioner Faulkner seconded the motion. Vote: Commissioners Faulkner, Neil, Skeen and Jenkins voted aye. Motion carried.

9. Report from City Council:

Commissioner Faulkner reported points from the City Council meeting held November 19th, 2020. She indicated that parking in the Town Center district was discussed at length, when the Council was considering a business license for Boca Motors. She indicated that Kathy Carver and Mesia Murphy will be heading up efforts to reestablish a Miss Plain City Pageant. She noted that the proposal was approved. She reported that a Development Agreement for West Park Subdivision was approved with minor contingencies. She stated that a plan for the Taylor Parks 3 / Plain City Irrigation Canal was deliberated. Commissioner Ortega relayed

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takeaways from the December 3rd meeting. He summarized public discussion on the proposed West Annexation. He indicated that Dominion Energy presented a Joint Cooperation Statement and lobbied for the Council's endorsement. He reported that Right-of-Way Purchases for a 3600 West Street widening project were evaluated.

10. Commission Comments:

Commissioner Faulkner wished everyone a merry Christmas. Commissioner Neil expressed hope that all have a merry Christmas. Commissioner Jenkins had no further comment. Commissioner Skeen yielded. Commissioner Ortega deferred comment. Chairman Maw voiced appreciation to commissioners for outstanding service.

11. Adjournment:

Motion: Commissioner Faulkner motioned to Adjourn at 9:00 p.m. – Commissioner Skeen seconded the motion. Vote: Commissioners Faulkner, Neil, Skeen and Jenkins voted aye. Motion carried.

2021

<u>Neil</u>	<u>Faulkner</u>	<u>Maw</u>	<u>Jenkins</u>	<u>Skeen</u>	<u>Ortega</u>
Jan 7	Jan 21	Feb 4	Feb 18	Mar 4	Mar 18
Apr 1	Apr 15	May 6	May 20	Jun 3	Jun 17
July 1	July 15	Aug 5	Aug 19	Sept 2	Sept 16
Oct 7	Oct 21	Nov 4	Nov 18	Dec 2	Dec 16

Planning Commission Chair

Planning Commission Secretary