

Minutes - Goshen Plan Commission
Tuesday, July 15, 2008, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Connie Garber, Tom Holtzinger, Bob McCoige, Kelly Huffman, Jim Smith and John King. Also present were City Planner Joe Hauflaire and Attorney Don Shuler.

II. The minutes of 6/17/2008 were approved - Garber/Holtzinger, 6-0.

III. The Zoning/Subdivision Ordinances and Official Staff Reports were unanimously filed into Record – Garber/Holtzinger, 6-0.

IV. Postponements/Withdrawals

Replat of Maplewood Estates subdivision– public hearing item

08-04SUB - Clover Trails Corporation, Bontrager Hardies Realty & Phil Barker request a replat of Lots 2-8, 10-13, 15-19 and 22-36 of the Maplewood Estates residential subdivision for the purpose of creating single family attached dwellings with two dwellings per lot each on their own platted lot. The subject property is generally located south of Harvest Drive and west of Northstone Road and zoned Residential R-3.

Mr. Smith advised that the petitioner is requesting that this item be tabled until the August Plan Commission meeting.

A motion was made and seconded, King/Holtzinger, to table 08-04SUB at the request of the petitioner. The motion passed, 6-0.

V. **Minor Subdivision Approval (primary and secondary)** – public hearing item

08-03SUB – Christian & Mary Stoltzfus, Brads-Ko Engineering & Surveying and Habitat for Humanity request the approval of a two (2) lot minor residential subdivision. The subject property is generally located on the south side of Hackett Road and west of Holub Lane with the common address of 414 Hackett Road. The property is zoned Residential R-1.

Mr. Smith advised that this is a public hearing item. He also noted that it is a subdivision matter that will remain with the Plan Commission.

Mr. Hauflaire stated that the Staff Report talks about granting both primary and secondary subdivision approval. He stated that he anticipates that issues will arise with this subdivision and suggested moving forward with only primary approval with the placement of conditions. Once the issues are resolved, he noted that it would then come back for the secondary approval with no need for any additional conditions.

Petitioner Presentation

Barry Pharis, Brads-Ko Engineering & Surveying at 1009 S. 9th Street, spoke on behalf of the petition. He advised that Tom McArthur from Habitat for Humanity was also present to answer any questions. Mr. Pharis provided 11x17 copies of the revised site plan that was submitted for drainage approval to the Engineering Department earlier in the week for the Commission's review and pointed out the subject location of the proposed development. He noted that Lot 1 will be just over an acre with Lot 2 having approximately ¼ acre or about 10,000 square feet. He stated that they have been made aware of the drainage issues for this property by an adjacent property owner. Because of this, he stated that they completed a water shed analysis and can confirm that approximately 25 acres of land drains onto this property. He advised that they have come up with a plan to create a swale to capture the water at Hackett Road and move it along the east side of the residence and south to the wetland that exists at the rear of the property. He noted that they have created a retention area on the lot to retain some of the water that will flow through the property. By implementing this plan, Mr. Pharis stated that they will be able to more quickly move the water from Hackett Road and will hopefully alleviate some of the existing problems. He advised that copies of the plans have been provided to both the Planning & Engineering departments for review. He also reminded the members that it is their firm's responsibility

to make sure that the proposed plan works and, if it doesn't, he stated that it will then be their responsibility to resolve it.

Mr. Smith asked for confirmation that Brads-Ko would be responsible for fixing the drainage problems if the plan does not work. Mr. Pharis reiterated that it would be their responsibility but stated that they are confident.

Mr. Pharis stated that they are working with the county to determine whether or not the Rule 5 requirements regarding erosion control will apply to the subject property. He stated that they will meet whatever requirements are set and stated that they should have an answer back on the matter by next week. He also noted that the plat will also need to go to the Board of Public Works and Safety for approval following acceptance by City Engineering.

Mr. Smith requested more information on what Rule 5 entails. Mr. Pharis stated that it has to do with controlling the erosion of the land. He noted that the county would conduct inspections both during and after construction if required. He stated that the goal of the program is to keep the water on soils on the subject property and not onto the properties of others.

Audience Comments

Michael Batts, 1215 Holub Lane, spoke in response to the petition. He stated that they are happy with what they have heard from Brads-Ko regarding their recent engineering of the run-off for the subject property and noted that they have had a lot of trouble as residents of the area with flooding as they are located in a low spot. He stated that the City did install two (2) dry wells on the property to the north. He advised that he was not aware that there is currently one located on the subject property, as well, but pointed out that there is still an issue. He stated that he is present to make sure that the drainage issue is addressed as they are aware that the proposed home will be a Habitat for Humanity house. He advised that they don't want the drainage to be a problem for people moving in with the dream of home ownership. Mr. Batts questioned whether or not the planned home will have a basement.

Mr. Pharis stated that the home will *not* have a basement.

Mr. Batts further advised that his mother-in-law had worked with Brads-Ko in 1999 and read for the Board members from the letter. He pointed out that the drainage in the area has been an issue for some time and reiterated that it needs to be addressed. He further questioned who should have to deal with the problem.

Vera Torres, 1216 Wyndemere Court, spoke as an area resident. She advised that she originally developed the area in which she lives and pointed out that there have always been water problems. She again stated that Brads-Ko had done the work for her project, as well. She provided photos for the Board members of flooding in the area that she had taken on February 17, 2008 as documentation of the drainage problems. She noted that the problem was not even from a heavy rain and was caused by a warm day and the ground was thawing. She advised that she wrote a letter to MapleCrest about the problem several years ago and received a response from MapleCrest's attorney, Richard Mehl, dated 1994. She summed up their response as them saying that the drainage was just the natural flow, that MapleCrest had been there for thirty (30) years and that it was the fault of the builder and bad planning that they were struggling with flooding. She stated that they claimed no responsibility for the problem. She stated that she doesn't mind the new construction but is concerned that there will always be a drainage issue. She further stated that she thinks that a pipe should be installed to route the water back to the wetland area and that she doesn't see a swale being sufficient.

Ms. Garber asked if they are concerned that Brads-Ko will not do the plans correctly for the subject property. Ms. Torres stated that she is concerned that a proper swale will need to be exceptionally deep and wide to take the adequate amount of water back to the wetland area.

Donna Miller, 512 Hackett Road, stated that she lives directly across the street from MapleCrest. She advised that she is always dealing with run-off issues from the golf course. She further stated that their home was constructed on a hill so their residence is protected but noted that there is always standing water on their property.

Paul Scott, 417 Hackett Road, stated that he lives directly across the street from the subject property. He pointed

out that drainage is always an issue in the area. He questioned whether or not they will ever request to put another house on the rear portion of the subject property.

Christian Stoltzfus, 414 Hackett Road, stated that he is the current owner of the subject property. He pointed out that the land is well drained and slopes downward to the south. He stated that they believe it is possible to direct where the water will flow on the property.

Mr. Smith asked Mr. Stoltzfus if they anticipate any further development on the southern portion of the lot. Mr. Stoltzfus stated that they have no current plans to do so.

Vera Torres, 1216 Wyndemere Court, pointed out that they should have to pay for the property road to be constructed if they choose to develop the southern portion of the lot later on as she had to do so when she developed her property. Mr. Hauflaire stated that there would be another public hearing if they ever choose to further subdivide the property.

Ms. Torres advised that she never received a letter for tonight's meeting despite the fact that she is within 300' of the subject property. Mr. Hauflaire advised that the list of all applicable property owners is provided by the Auditor's Office and further stated that notices are sent to everyone on the list.

Michael Batts, 1215 Holub Lane, again spoke and stated that he is concerned that no one on the Board asked to see Ms. Torres' photos. Ms. Huffman stated that it is not the Board's responsibility to request documents and advised that the petitioner should provide them to the Board. She accepted the photos to be handed around and informed Mr. Batts that they would need to remain on file in the Planning Office for thirty (30) days. Mr. Batts then explained for the members what was shown in each photo. He clarified that they are not saying that Brads-Ko's plan will not work but advised that they want to make sure the Commission members understand the drainage issues in the area.

Jennifer Batts, 1215 Holub Lane, stated that they want to make sure that the liability doesn't come back on them if there are drainage problems for the subject property. She stated that Brads-Ko obviously did not engineer her mother's land properly and is concerned that this will not work either, especially when they will be giving someone a free house.

Rebuttal

Barry Pharis, Brads-Ko Engineering & Surveying at 1009 S. 9th Street, spoke in response to the many comments and concerns that were expressed. Regarding the potential for a third home, he pointed out that this is only a two (2) lot subdivision and that only two (2) homes can exist as such. He confirmed that it would have to come back as a public hearing if anyone ever decided to further subdivide the property. In response to the problems noted with Ms. Torres' property to the north, he clarified that they design drainage, retention, detention, swales, etc... but do not actually build or place a home on the land. He stated that water in the homes would indicate that they were not properly placed on the lot. He also noted that changes to the golf course would, in turn, affect Ms. Torres' drainage situation and advised that they could not have anticipated that such would happen. Mr. Pharis stated that they are working to resolve Ms. Batts' concerns by removing more water than what is currently flowing to protect the homes that they are hoping to build. He stated that they have researched their options and feel that they can move more water with a swale than they could with a pipe. Mr. Pharis noted that they cannot solve the twenty-five (25) acre watershed problem but are working to address how it affects the subject property. Regarding the comment about giving a house for "free", he reviewed the Habitat for Humanity process and their requirements and clarified that it is not "free" in the end. He stated that they earn the right to have a home by completing all of the requirements.

Mr. Pharis closed by reiterating that the only issue at hand is the issue of drainage. He again confirmed that they will have to fix it if the proposed plan does not work. He reminded everyone that there will be three (3) sources of contacts for the neighbors if it doesn't with those contacts being Brads-Ko, Habitat for Humanity and the City. In summary, Mr. Pharis stated that the proposed plan exceeds all requirements of the subdivision ordinance and asked for the Plan Commission's approval.

Mr. Holtzinger asked for clarification as to how the swale will work to redirect the water. Mr. Pharis showed on the map how it currently flows and explained how the swale will reroute the water to the east portion of the lot to the wetland area in the rear.

Mr. King asked for confirmation that the current proposal should actually improve the existing situation. Mr. Pharis confirmed that they plan to take the water off Hackett Road faster, dramatically reducing the back up on the south side of the road.

Mr. McCoige asked that it be put into the record that Brads-Ko is taking full responsibility for what they are saying will work. He also asked what will be done to ensure that the swale will not be filled in within a year or two. Mr. Pharis stated that it will be part of the deed record that the swale is to remain unobstructed. He also acknowledged that their plan will be reviewed and accepted by the City but that they will not “approve” it and say that it will or will not work. Mr. McCoige confirmed that they approve only the content of the plans. He also noted that it will not be the City’s responsibility to ensure that the swale remains unobstructed. He pointed out that run-off is a civil matter only and that the City will not be part of that equation.

Mr. Holtzinger asked if the swale will be able to handle 100% of the anticipated run-off. Mr. Pharis confirmed that they are required to provide for 100% of the hard surface run-off that their development creates.

Paul Scott, 417 Hackett Road, stated that he has two (2) drywells on his property and that they do not solve his problems. He pointed out that they will not fix the problems for the subject property, either.

Mr. Pharis clarified that they are not proposing to have dry wells solve the issues for the subject property. He only mentioned them as a way of acknowledging that they are there and advised that they have come up with a different alternative to remedy the drainage issue.

Mr. Scott noted that the neighbor’s to the east are on even lower land than the subject property and pointed out that the drainage will run onto their land. Mr. Pharis again stated that they cannot allow their water to run off onto other’s land.

The public hearing was closed.

Staff Report & Discussion

Mr. Hauflaire confirmed for the members that the proposed subdivision does meet all the criteria of Section 420 of the Subdivision Ordinance. He suggested granting only preliminary approval at this point in time due to the fact that there may be an issue from the Engineering Department regarding the drainage.

Mr. Smith suggested adding language to the conditions regarding not filling in the swale. Mr. Hauflaire suggested requiring a drainage easement and Mr. McCoige stated that the burden needs to be on the property owners. He agreed that it would be good to add a Condition #5 with the requirement for language in the deed or other permanent document ensuring that the swale is to remain unobstructed.

Mr. McCoige also asked that a Condition #6 be added requiring that Rule 5 requirements be followed if required by the County.

Action

A motion was made and seconded, Huffman/Garber, to grant primary minor subdivision approval for 08-03SUB with the conditions listed in the Staff Report and the addition of a two (2) conditions to read as follows:

5. *There shall be language included in the deed for the property or another binding document ensuring that the swale on the property will remain unobstructed and that it will be maintained by the private property owner and not the City of Goshen.*
6. *Rule 5 requirements shall be met if required by the County.*

The motion passed, 6-0.

- VI. **Replat of Maplewood Estates subdivision**– public hearing item
08-04SUB – Clover Trails Corporation, Bontrager Hardies Realty & Phil Barker request a replat of Lots 2-8, 10-13, 15-19 and 22-36 of the Maplewood Estates residential subdivision for the purpose of creating single family attached dwellings with two dwellings per lot each on their own platted lot. The subject property is generally located south of Harvest Drive and west of Northstone Road and zoned Residential R-3.

Tabled at the request of the petitioner.

- IX. **Rezoning & Ordinance Amendment – Downtown District (Overlay District)** public hearing item
08-06R & 08-05OA - An amendment to the Zoning Ordinance to create a Downtown District (Overlay District) to enhance and maintain the traditional Main Street corridor. The proposed Downtown District north boundary would be located at the first east/west alley south of Pike Street, east of Main Street, the east boundary would follow the north/south alley between Main Street and 5th Street, the south boundary would be Jefferson Street, the west boundary would be the north/south alley between 3rd and Main north of Jefferson to Lincoln Avenue, then along Lincoln Avenue to Main and following Main north of Lincoln to the first east/west alley south of Pike Street.

Mr. Smith advised that this petition will move forward to the City Council with a recommendation from the Plan Commission.

Petitioner Presentation

Rhonda Yoder, Assistant City Planner for the City of Goshen, introduced Earlene Nofziger to present the petition.

Earlene Nofziger, Chair of the Historic Committee at 124 S. Main Street, provided a slide show for the Plan Commission members. She provided a history of the committee and its formation and general information about the proposed ordinance and what it would require. (A copy of the material covered within the slide show is on file in the City Planning Department.) Ms. Nofziger highlighted the following points:

The overlay zoning district does not change the underlying zoning, which is Commercial B-2 (Central Business District), but establishes additional regulations which apply to the overlay area.

Major requirements of the Downtown District if the ordinance is adopted:

- Minimum building height of two stories for new or rebuilt buildings
- Zero lot line setback required at front and side property lines
- New retail buildings required to have one public street entrance and an additional public entrance at the rear or side of the building
- New, rebuilt or altered buildings require building materials on the façade which are visually compatible to materials on the façade of existing pre-1910 buildings
- New, rebuilt or altered buildings require 75% windows between two and ten feet on the primary street façade
- New, rebuilt or altered buildings require a symmetrically shaped parapet extending above the roof line
- Parking lots are prohibited on lots with frontage on Main Street
- Site plan approval required before a permit is issued for demolition, moving, alteration, rebuilding or building

Ms. Garber inquired as to whether or not there were addresses that were left out of the list as implied in the Goshen News article. Ms. Yoder advised that the list is of only the buildings that have applicable facades at this point in time. She stated that the text of the ordinance is clear and she advised that they will change the title of the Appendix prior to moving it forward to Council to make it clear.

Ms. Huffman brought up the question of a church in the downtown. She inquired as to whether or not the rear of the building would be required to meet the requirements of the proposed ordinance. Ms. Yoder advised that there are currently no churches within the proposed district. She further stated that, although the rear would still be considered the façade that it would not be as important as the main urban wall.

Audience Comments

Eric Kanagy, 517 S. 3rd Street, stated that he is the president of Downtown Goshen, Inc. He provided a copy of a petition signed by several of the downtown property owners showing support for the proposed ordinance. He further stated that they see this as a start and a way to continue what is currently in place.

Chic Lantz, 807 W. Plymouth, spoke as a member of the preservation commission that worked on the proposed ordinance. He advised that the basic attitude of the ordinance is to maintain the architectural integrity of Goshen's downtown. He pointed out that the town is pretty attractive and that they've looked at some other places that are horror stories. He stated that people come to Goshen to see its downtown and its Main Street. He also pointed out that Goshen has motivated others and that we want to maintain what we have.

David Daugherty, President of the Goshen Chamber of Commerce at 232 S. Main Street, spoke in favor of the ordinance. He pointed out that downtown Goshen is unique and that there is a need to preserve the urban wall that is currently present. He praised the committee for their work on coming up with this plan and encouraged the Commission to pass this and move it forward to help Goshen keep what is in place.

David Schrock-Shenk, 305 Reservoir Place, spoke in favor of the petition. He advised that he and others recently bought 206 S. Main Street and have renovated it. He pointed out that the proposed ordinance was not in place when they did their work but noted that it wouldn't have restricted them in any way. He further stated that this type of ordinance makes it more likely for investors to invest and make these great things happen.

Roger Nofziger, 2605 Berkey Avenue, spoke in support of the petition. He provided a handout for the members written by the Goshen Historical Society showing written support. He praised the committee for their work on this project and stated that he feels that it would be a great contribution to the City.

Jan Gleysteen, 1609 S. 13th Street, spoke in favor of the petition. He pointed out that he is not a property owner in the downtown but ecstatic about the work that is being done. He advised that he is in favor of maintaining the old and provided examples of other places where work has been done to preserve the history and told the story of the Continental Can Company president that worked to preserve Aspen, Colorado. He stated that it worked for them and that he is glad to see the same type of thing working here. He asked the Commission for a positive vote on the ordinance.

Ms. Yoder advised that the Planning Office received a call from Virgil Snyder in support of the ordinance but noted that he was unable to attend the meeting. She also pointed out letters from Renee Miller and Lovina Rutt in support. She did advise that an e-mail was received today from Attorney Bill Davis voicing only one concern as he was unable to be present. She advised that the concern is regarding adding a date for when buildings would become "non-conforming". She then asked that Attorney Don Shuler talk with the members about his opinion on the requested change.

Attorney Shuler stated that he spoke with Larry Barks about the matter and they see no reason to have the date in place. He advised that it is implied that the date of passage would be the date that the ordinance would go into effect. He again reiterated that they see no reason to have a date listed in the ordinance.

Ms. Garber asked about the Red Cross building and whether or not it would be required to meet all the listed requirements. Ms. Yoder pointed out that the Board of Zoning Appeals is always an option and that they do expect the need for some variances. She confirmed that the Red Cross building is a good example of a currently historic building that would not meet the ordinance requirements.

Mr. McCoige asked what the maximum height would be for an accessory building within this district. Ms. Yoder advised that the standard language for the zoning district would apply for an accessory structure, which would be a detached structure such as a shed or a garage.

The public hearing was closed.

Staff Report & Discussion

There was no further discussion amongst the Commission members.

Action

A motion was made and seconded, King/McCoige, to pass along a favorable recommendation for 08-05OA to the City Council as proposed. The motion passed, 6-0.

XIII. Audience Items – none

XIV. Staff/Board Items – none

XV. Adjournment - 5:38pm

Respectfully Submitted:

Becky Hershberger, Recording Secretary

Approved By:

Jim Smith, President

Lovina G. Rutt, Secretary