

The Noblesville Plan Commission met in regular session on September 16, 2013 in the Noblesville Council Chambers. Members in attendance were as follows:

David W. Dragoo, President – Citizen Member  
Gretchen Hanes, Vice President – Board of Works Member  
Brian Glover – Citizen Member  
Doug DeJarnatt – Citizen Member  
Dave Burtner – Jurisdictional Member  
George Beason – Jurisdictional Member  
John Beery, City Engineer  
Pat Reed – Parks Board Member  
Greg O'Connor – Council Member  
Warren "Twig" Smith – Citizen Member  
Linda Wilcox – Citizen Member

Others in attendance included: Director of Planning Christy Langley, Senior Planner Joyceann Yelton, Andy Wert, Asst. Planning Director, and City Attorney Mike Howard,

President Dragoo calls the meeting to order at 7:00 PM.

#### **APPROVAL OF MINUTES**

Motion by Mr. DeJarnatt, second by Mr. Burtner to approve the September 16, 2013 minutes as presented.

AYE: Wilcox, Glover, DeJarnatt, Smith, Hanes, O'Connor, Reed, Beason, Burtner, Dragoo. ABSTAIN: Beery Motion carries 10, 0, 1.

#### **REPORT OF COMMITTEES**

None

#### **CORRESPONDENCE**

None

#### **NEW PUBLIC HEARINGS**

**#1 13N-14-6147 (13N-14-1574)** Amendments to the Corporate Campus Land Use and Subdistricts Zoning Map for the City of Noblesville. Submitted by Planning Staff

Ms. Yelton states this item was continued from the September meeting when Staff requested the continuance so the land use classifications on the Corporate Campus Map could be drawn to be easily read. She states we have included the parcels that by developer's agreements could be used for a variety of uses, depending the final user. She gave examples of the land uses categories such as single-family/multi-family/office flex or multi-family residential/commercial and indicated those areas on the map. Ms. Yelton states although we have delineated the land use categories on the map there still are additional restrictions such an acreage limitation for a specific uses in those

categories. She gave an example that only ten of the forty acres could be used for multi-family residential uses with the remainder being used for office/flex uses. She also states that we have better delineated the existing land use categories by attempting to follow parcel lines instead of it just being a random drawn line. In doing the updates, it should eliminate many questions from outsiders.

Ms. Langley states some of this was just a matter of record keeping and many of the areas were developed by previous employees that had the ideas in their heads but were not documented properly on the maps so it left it up to interpretation by the Planning Department Staff or our attorneys. She states we wanted to make it more legible for planning individuals to not have to re-read and interpret minutes from the past. She also states we are currently working with the City's GIS department to create a layer for the public to view on the GIS maps to be over-layed with the planned development (PD) layer that would include clicking on the area and obtaining the actual Planned Development Ordinance associated with that particular PD area and we will be doing the same for the Land Use and Subdistricts layers of the Corporate Campus Map. She states this will make it all more palatable and consumable for the public.

President Dragoo opened the public hearing and seeing no one come forward closed the public hearing.

**Motion by Mr. O'Connor second by Mrs. Hanes to send to the Council a favorable recommendation for the adoption of the updated Corporate Campus Land Use and Subdistricts map, a part of the overall zoning map for the City of Noblesville.**

**AYE: Wilcox, Glover, DeJarnatt, Smith, Hanes, O'Connor, Reed, Beason, Berry, Burtner, Dragoo. Motion carries 11, 0, 0.**

**#2 13N-14- 6127 (13N-14-1372)** Change of Zoning from "R5 Multi-family Residential" zoning district to either an "R1 Low Density Single-Family Residential" or "R3 Low to Moderate Density Single-Family Residential" zoning district for properties located in Hart Acres, Watershed, Harbour Village, North Harbour and unplatted tracts in the area of Morse Reservoir. Submitted by the Planning Staff.

Ms. Yelton states the item before you is a change of zoning from "R-5 Multi-Family Residential" zoning district to either and "R1 Low Density Single-Family Residential" or "R3 Moderate to High Density Single-Family Residential" zoning districts for properties adjacent to Morse Reservoir. She states in the mid-90's a complete revised Unified Development Ordinance was adopted that created many areas of lawful non-conforming uses due to the fact that pyramidal zoning was eliminated. She states in other words a single-family residential structure being a more restrictive use would be a permitted use in a less restrictive zoning district such as "R5 Multi-Family Residential" zoning district. She states the properties located in Hart Acres, The Watershed and Harbour Village are being proposed to change the existing multi-family zoning to an "R3 Moderate to High Density Single-Family Residential" zoning classification. The unplatted tract belonging to Harbour Trees is adjacent to "R1 Low Density Single-Family Residential" zoning districts with the remainder of property owned by them as

the "R1" zoning district and the unplatted tracts north of the condominiums known as "The Bluffs" would be zoned "R1". Ms. Yelton states all of these areas are considered lawful non-conforming uses and thus if structures are destroyed, then the owner would be required to submit an application to the Board of Zoning Appeals for a public hearing to rebuild their residential structure. She states the same is true of the construction of an accessory building or in some cases banks will not loan the monies for the purchase of a property that is a lawful non-conforming use. She states a 'Non-Conforming Lot, Use or Structure' is any lot, use, or structure legally existing as of the effective date of the Unified Development Ordinance, which does not comply with the ordinance requirements or any subsequent amendments. Ms. Yelton states the reason for the different zoning districts is so we do not create and maintain the establishment of lawful non-conforming uses. The areas being proposed for the change of zoning to "R3" can meet the bulk standards of that zoning district including setbacks, lot sizes, house sizes as it exists today and the same is true for the properties being proposed for the "R1" zoning district. Ms. Yelton states she did receive some telephone calls regarding what was happening with their property and she received only a single request from Mr. Surak (property located north of The Bluffs condominiums) requesting that his property be eliminated. She states this parcel of property does not have any structures existing on it and frankly, I am unsure how someone would have street access to this property. She states Staff has no objections to this request.

Ms. Smith asked if Mr. Surak gave a reason for the elimination of his property from the rezoning request.

Ms. Yelton states no; however, he did mention that at one time that portion of his property was to be an extension of "The Bluffs" condominiums. She states that she did give the Plan Commission a copy of Mr. Surak's email requesting elimination of his property from the change of zoning application. She states she did ask that he include reasons but as evidenced by the email, Mr. Surak did not.

Mr. O'Connor noted that it is his understanding that the whole genesis of the single-family dwelling in the "R5" zoning district is the fact they would have to apply to the Board of Zoning Appeals if their residence was destroyed or they proposed to construct an accessory building.

Ms. Yelton states that is correct and the fact that the current lots do not meet the bulk requirements of the "R5" zoning district.

Mr. DeJarnatt asked the total acreage of the Surak parcels.

Ms. Yelton states approximately one half acre.

Mr. Smith states that this property has no road access.

Ms. Yelton states that is correct.

Mrs. Langley states that removing this property does not make or break the deal. She states if in the future this person wants to establish multi-family, he would have to come before the Plan Commission and Council to rezone additional acreage. She states our

intention was not to bind the individual and if he thinks that the rezone to "R1" does; then exclude it.

President Dragoo opens the public hearing.

Mr. Joe Adams, 5059 East 211<sup>th</sup> Street, states that he owns the property just north of the Surak property. He states that the letter stated that the property was rezoned earlier. He states he has owned the property since 1995 and he had a team of real estate attorneys involved and there was no mention of this area being zoned as it is for multi-family. He states he owns one hundred acres and most of the land is in a conservation district. He states some of the land was zoned agriculture and the remainder was zoned single-family residential. He asks when did this happen?

Ms. Yelton responds that your particular property was not rezoned to another zoning classification in the 1990's. She states what did happen was the adoption of a completely revised Unified Development Ordinance that created new requirements for the bulk standards and disallowed pyramidal zoning. She states in 1995, although the area was zoned "R5 Multi-Family Residential" zoning district it still permitted the use of a single-family dwelling on the property. She further states that we do not have an agricultural zoning district and that use is permitted in all zoning districts. Ms. Yelton states it was not the zoning of your property that changed but the requirements of the individual zoning districts with the adoption of a new Unified Development Ordinance that changed.

Mr. Howard, City Attorney, states essentially under the old ordinance, if you had "R5" zoning you could put "R3, R2, R1" uses in that zoning. He states now the label is the only thing that you can use it for. He states we are trying to get the zoning district compatible with what is the use. He states as per Mrs. Langley we are trying to put real labels on things so we do not have to rely on institutional memory.

Mr. Adams states he understands and does not object to the rezoning. He states this appears to be due process.

Mrs. Langley states this area probably does back to hand drawn map days and we would be happy to share those with you; however, I cannot tell you exactly when the "R5" occurred.

Mr. Allen LeRoy, 7169 Waterview Pointe, wanted to speak about Hart Acres. He requests clarification on what would be developed on the vacant three lots at the beginning of this subdivision, that being townhomes and/or apartments.

Ms. Yelton states actually it is just the opposite. Currently, the property could be developed as a multi-family dwelling (a structure with three or more units). She states we are requesting the change of zoning to permit only single-family residential units on those three parcels meeting the bulk standards of that particular district. She states today it could townhouses, apartments, and/or attached units within a single-structure.

Mr. LeRoy states he prefers single-family homes being constructed on those vacant lots.

Mr. Louis Bixler, 7162 Harding Lane, states he moved into the structure approximately two months ago. He stated during the negotiations with the owners, the zoning of "R5" came up and it caused some consternation as we have vacant ground adjacent to the use that could be used for condominiums, townhomes, or apartments. He asks if "R3" allows high density as per Ms. Yelton's statement.

Ms. Yelton states it is moderate to high density single-family residential zoning district. She states although it is high density, it would only permit a single-family structure. She states the reasoning for the "R3" district has to do with the lot size and meeting the bulk standard requirements of said district.

Mr. Bixler asks if the standards could change for an "R3".

Mrs. Langley states hypothetically at any time the standards could change for the "R1, R2, R3, R4 or R5" zoning districts.

Mr. Bixler states he suggests that the petition be amended and changed to an "R1" zoning district.

Ms. Yelton responded by stating that the bulk standards such as lot size, minimum house size, setbacks for Hart Acres cannot meet the requirements of an "R1" zoning district that is why Staff chose an "R3" zoning district so the standards could be met. She states rezoning it to an "R1" would allow this property to remain as a Lawful non-conforming use to which we are trying to remove these properties from that status.

Mr. Howard states "trust me" you do not want the area to be rezoned to "R1" because those lots cannot meet the minimum lot size standards and thus the area could remain vacant. He states you might like that; however, we are rezoning the property so that at some time in the future, a residential structure could be constructed on those lots. He states rezoning the lots to "R1" would be taking the value away from those lots and by zoning it "R3" the value remains.

Mr. Bixler states but an "R3" high density permits a high-rise apartment structure.

Mrs. Langley responded "no", it permits a single-family structure only.

Mr. Bixler reiterated that anyone buying those lots will have to establish a single-family residence on it.

Mr. Jeff Boyser, 411 Chris Lane, states he is also a new neighbor having moved into this residence only four months ago. He asks if there are setbacks to the "R3" zoning district if you are to build onto the front of the house.

Mrs. Langley states there are setback standards for each zoning district pertaining to front, side and rear yards. She states the front yard setback for all those zoning district is the same and a side yard setback in "R3" is six feet while in "R5" it is five feet, and all have the same rear yard setback of twenty feet.

Mr. Boyser states that the "R5" zoning district never came up when we applied for a loan. He states it is just interesting.

Mr. Howard states many mortgage companies after 2009 just say no when Staff begins talking about all the exceptions that apply to properties that not are within a zoning district that does not now permit that use. He states we are trying to be problems curers as opposed to problem causers.

President Dragoo closes the public hearing.

Mr. Beery asks do we leave ourselves open by eliminating the one property and leaving it as "R5" and then the property owner comes back and states you left it "R5" so you owe me "R5" on the remainder of my property.

Mrs. Langley states that it appears that the FEMA maps have increased in that area and at one time there may have be sufficient property to develop as multi-family but today that is not true.

**Motion by Mrs. Hanes second by Mr. O'Connor to send a favorable recommendation for adoption the change of zoning from "R5 Multi-Family" to either "R3 Moderate to High Density Single-Family" or "R1 Low Density Single-Family Residential" as per the attachments excluding the Surak property as per his request.**

**AYE: Wilcox, Glover, DeJarnatt, Smith, Hanes, O'Connor, Reed, Beason, Beery, Burtner, Dragoo. Motion carries 11, 0, 0.**

**#3 13N-14-6145 (13N-14-1572)** Change of Zoning from "PB Planned Business" zoning district to "R4 Moderate to High Density Single-Family/Two-Family Residential" zoning district for property located along the west side of South Fifth Street between Cherry Street and Division Street. Submitted by the Planning Staff.

Ms. Yelton states this is another area the Planning Staff is requesting a change of zoning from "PB Planned Business" to "R4 Single/Two-Family Residential" zoning district. She states most of the surrounding property is zoned "R4" residential and existing on seven of the eight lots are residential structures. She states the "PB" district permits commercial uses and does not allow for residential uses. She states we have recently had a request by an individual to construct a single-family structure on the vacant lot to which that individual was told he would have to seek relief from the Board of Zoning Appeals and that we could not by right issue a building permit for a single-family dwelling. She states the portion of those lots that are currently located in the "FH Flood Hazard District" will remain zoned "FH". Ms. Yelton states she has spoken to the individual that owns the northern most lot and it was information only. She states again all of these uses are non-conforming that would require a public hearing before the Board of Zoning Appeals if the structures were destroyed and if they wished to build an accessory structure. She states Staff is again trying to be proactive in this request to rezone the property for the existing uses meeting the zoning district requirements. Ms. Yelton states the surrounding zoning is "R4".

President Dragoo opens the public hearing.

Ms. Beth Knox, 207 S. Fifth Street, states she is the northern most lot and the individual that contacted the department. She states she does not want to die in this house but does want to be able to sell it. She states the house was built in the 1860's and she wants to enclose her front porch. She states she is surrounded by the cemetery. She asks when this property became business.

Mr. Howard states it was discovered on an old map.

Ms. Knox states the property behind her is fenced and that she maintains the sixteen feet. She notes there are bodies buried within these sixteen feet, which at one time was an alley. She states they have inquired about vacating that alley but no one seems receptive to the idea. She states not all of the adjoining property owners maintain that strip and we have had to contact the Street Department to help. She states they willing do so. She states if we are maintaining it and it is fenced on my side then why is it not my property.

Mr. Howard states if you are using it without paying for it then why are you asking.

Ms. Knox states my boyfriend is a property surveyor and we have found three of the four corner stakes. She states I would like to pave my driveway but part of it is not on my property because my house was not centered on the lot.

Mrs. Langley states the City owns the cemetery and the old alley. She states we have had a couple of requests to vacate the alley and we are aware of the perceived ownership issues in the area. She states we have not made a decision to vacate the alley.

Ms. Knox states both her neighbor and her want the "R4" zoning district.

**Motion by Mr. O'Connor seconded by Mrs. Hanes to send a favorable recommendation for adoption the change of zoning from "PB Planned Business" to either "R4 Single/Two Family Residential" as per the exhibit.**

**AYE: Wilcox, Glover, DeJarnatt, Smith, Hanes, O'Connor, Reed, Beason, Beery, Burtner, Dragoo. Motion carries 11, 0, 0.**

### **MISCELLANEOUS BUSINESS**

Ms. Yelton states she has presented the Commission with the 2014 Meeting Dates and Filing Deadline schedule and would appreciate a motion for adoption. She states it encompasses the Plan Commission, Board of Zoning Appeals, Architectural Review Board, Technical Advisory Committee, Board of Public Works, and City Council meetings.

**Motion by Mr. DeJarnatt second by Mr. O'Connor to accept the 2014 Meeting Dates and Filing Schedule as presented.**

**AYE: Wilcox, Glover, DeJarnatt, Smith, Hanes, O'Connor, Reed, Beason, Burtner, Dragoo. Motion carries 10, 0, 0.**

Mrs. Langley states this is a reminder that was have scheduled for Thursday, October 21, 2013 at 6:30 PM our final comprehensive master plan meeting at East Middle School. She states it is informal and a come and go as you please session. She notes pizza will be served and soda drinks. She states this is an opportunity for the public to say, "we got that right" or "that's incorrect" from the information gathered from other studies, stakeholder and other public meetings. She states we will have goals also to discuss. She states we would like to see all of you there providing your feedback.

### **ADJOURNMENT**

**A motion is made for adjournment. The meeting adjourned at 8:02 PM**

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David W. Dragoo, President

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Christy Langley, Secretary