

Taylorsville-Spencer County
Joint Planning and Zoning Commission

The regular meeting of the Taylorsville-Spencer County Joint Planning and Zoning Commission was held April 7, 2022, in the Fiscal Court meeting room located at 28 East Main Street, Taylorsville, Kentucky.

Chairman Deapen called the meeting to order.

Present were Gordon Deapen, Marsha Mudd, Diana Faue, Anthony Travis, Valerie Hunt, Teddy Noel and Paula Wheatley. Also present were Attorney Dale, Enforcer Ashlee Welch and Admin. Assistant Angie Helton. Administrator Sweazy and Dwight Clayton were absent.

Chairman Deapen: You have in your packets a copy of the minutes for March 17, 2022. I will entertain a motion to approve those minutes.

Commissioner Wheatley made motion to approve the minutes for the March 17, 2022, meeting as amended. Second by Commissioner Hunt.

Chairman Deapen: Any further discussion from the commission? Angie read the roll.

Admin. Assistant Helton: Roll called, motion carries.

Chairman Deapen: Any committees?

Admin. Assistant Helton: None.

Chairman Deapen: Our bylaws require anyone wishing to speak be sworn in before testimony. Another one of our bylaws is all speakers are limited to 3 minutes. That does not include questions from the commission.

Attorney Dale administered the oath of testimony to all wishing to speak.

Chairman Deapen: We have two items of old business and we have had a request to reverse the order of those. So, I think we are going to hear from WCM Land first.

Attorney Tichenor: Charles Tichenor representing WCM Land, LLC, Series 9. We are coming back for a second hearing on my client's application. At this time, due to some issues that was brought up at the first meeting, my client has since fired the contractor, hired a new contractor, got surveyors in there and we think it is to everybody's best interest we go ahead and do a minor plat with this application and get the entrance way fixed. Therefore, my client is requesting that we postpone this until your second meeting in June. I think that would be June 16th. That will give time to get a preliminary plat done and clean up the issues that have risen out there.

Attorney Dale: Let the minutes show continued until June 16th. We need a date and time certain so no one will have to be re-noticed. So, no one will be re-noticed, it will be back on the docket for June 16, 2022, at 7pm. So, you have notice, there won't be any further notice in regard to that.

Chairman Deapen: Let me extend our apologies to those of you who did take the time to come out tonight. I don't see a need to take testimony because frankly we don't know what it's going to look like at this point. We don't know what we would be taking testimony on. We will bend over backwards to make sure you get an opportunity... Sir come on up.

Ken Adcock: 6044 Little Mount Road and 41 Mill Road. There are some irregularities in the survey specifically my property line, if you recall from the last meeting, is basically from the roadway all the way back to the back. I would like to submit some photos of where some sticks have been moved from the original location to a new location. I ask from the last meeting if we could slow walk this process. In regard to what would be approved and how this subdivision would be laid out. I have no concerns of a subdivision coming beside me, but I am a active farmer, 8th generation in this county. There's not many of us left and I would like to continue my farming as well. One of my other concerns is, which it seems to be addressed at this time on the surveying. I believe my property has been destroyed, dirt has been moved, landmarks maybe been changed relevant to 1925 of this property in question. Again, when we meet back in June, I will be speaking again. I trust there will not be another meeting like this until June.

Chairman Deapen: That is correct.

Attorney Dale: With this survey there trying to get squared away as I understand is a preliminary layout of the lots to give you all an idea of exactly what you're talking around and that's probably not going to be 125 lots and to give you all an idea of how it's going to look. This has been put off because now we're going to June and there could be two more meeting after that. So, at that standpoint, it's not being rushed through.

Mr. Adcock: I've been through this process we also border Tindle Ridge Estates, which was approved in the late 90's and I had several neighbors there. In this scenario now I'm dealing with one neighbor now and would like to get everything addressed before I have like 40 neighbors. Because just recently I had people coming across my property line hunting and doing things on the back of my farm. In their innocence, I believed them, but I corrected them they thought it was their property. I had to take the plat and show them that theirs stopped at the rock wall.

Chairman Deapen: Let me assure you that this matter will not come back before the commission until that date of June 16th.

Mr. Adcock: Thank you.

Chairman Deapen: We will move that to June 16th. Other old business.

Admin. Assistant Helton: This will be the application of Phillip Richard Everhart for Willow Island Phase VI.

Kevin Sisler: With Sisler & Maggard Engineering representing Phillip Richard Everhart. We came before you 2 weeks ago and there was some concerns on preliminary plat, and I hope we have the answers that you need. The runway was the biggest question, which I know as much as you all know. We made some changes to our plat. The blue lines are what was changed. Do you have a highlighted set?

Chairman Deapen: No, we do not.

Mr. Sisler: On the screen, the blue is the changes that we made on the plat. We have lost a lot against the runway because the property extended through the runway to the other side. Mr. Everhart has asked that the 50 feet on the west side remain a part of the property. The acreage is stated on the drawing, also on the drawing just above the graph shows what the acreage is for the access road, the runway buffer is in blue, the right-a-way and the land remaining. We've gone down from about 28 acres to 25.773 acres. On the bottom of the drawing, I put some notes. I listed the subdivision covenants deed book 247, page 607, which is in Shelby County and then deed book 84, page 114 in Spencer County. The lease agreement with The Pilot's Club for the runway was recorded on Monday, in deed book 329, pages 141-149. The Pilot's Club bylaws have not been completed but they are working on that. I believe all the property ownership, right-a-way and easements are all in that covenant and then this agreement that was filed with the Pilot's Club. I think in your packet you have the Pilot's Club Agreement. Correct?

Admin. Assistant Helton: No. There's not one in the folder.

Mr. Sisler: It was recorded on Monday and there's a drawing in the back that specifies the runway in green is in Shelby County and the runway in red is in Spencer County.

Mr. Everhart gave us copy for the record.

Chairman Deapen: For the record we have excepted a copy of the colorized drawing showing those runways.

Mr. Sisler: This agreement was done in 2008, it just had not been recorded at the Courthouse. Which has now been done.

Chairman Deapen: I think that's a major improvement over the concerns we had of what might happen later down the road.

Mr. Sisler: In this agreement number 2 describes that colored drawing. It shows what's in Shelby County and what's in Spencer County. It talks about who going to take care of the runway, who's responsible for it, and all of that.

Chairman Deapen: Since you brought that up, note number 1 on the plat says taxiways (40') are on private property and should be maintained by owner. That's separate and distinct from the runway, correct?

Mr. Sisler: Yes.

Chairman Deapen: Usually easement information is to be included in number 2. I just wanted to make sure I was clear on that.

Mr. Sisler: You can see on the maps in front of you, there was a little confusion on the 40-foot taxiways because it was 20 foot on each property and I've clarified that so now it says 40 foot so no one is confused, 20 on one side of the property line and 20 on the other. So, if you look in between lots 10-13 you will see that taxiway 40'. Then you will see it running on the west side of lot 17 next to Jeff Gagnon, he already had 20' on his property and now the property on Lot 17

now has 20' and that makes 40'. Anybody that's going to live on an airport knows their going to have to take care of that, it's going to be in their yard. It's part of their property, they will maintain that 40' taxiway easement. Those people do not believe, by this, they are responsible for the runway, that's responsible by the Pilot's Club. That's who maintains the runway and the buffer zones on each side of the runway. With 150' wide width, the runway down the middle is 50', then 50' on each side that cannot have anything in it.

Chairman Deapen: So, for the record again. This indicates that from the first presentation until now this has now been renamed to Willow Island Phase VI, not Phase IV.

Mr. Sisler: Yes.

Chairman Deapen: Is this 27.107 acres correct now with the new configuration?

Mr. Sisler: No, if you're looking at the new drawing we have here, the total acres is 25.773.

Chairman Deapen: Its now 17, not 18?

Mr. Sisler: Yes, we lost a lot and had to configure to get enough space.

Commissioner Hunt: On lots 14, 15, 16, and 17, on lot 16 is the 1.01 the total I'm seeing including the 50' on the back side?

Mr. Sisler: Yes.

Commissioner Hunt: So, you don't have a total of 1 acre that is usable land?

Mr. Sisler: Correct, because 50' of that is an easement.

Commissioner Hunt: So, you can't put laterals?

Mr. Sisler: You can't put laterals; you can't put anything.

Attorney Dale: Are they going to hook into the sewer system?

Mr. Sisler: No.

Attorney Dale: They're not going to have enough there to put lateral in. You have to have a least an acre of usable land.

Mr. Sisler: Mr. Everhart says the lateral lines because there underground, they can go in that easement.

Attorney Dale: They have to have an acre.

Mr. Sisler: That would include the acre.

Attorney Dale: There's 50' that's not functional for the landowner.

Mr. Sisler: But he's saying...

Attorney Dale: I'm saying as a lawyer for Planning & Zoning you need an acre. You can have an easement on it if they can use that easement. Like for water lines, sewer lines, you can do that

as long as you don't put a permanent structure on it. But in this case the 50' nothing can go in there.

Mr. Sisler: Above ground.

Attorney Dale: Even underground on that 50' buffer. That is completely off limits.

Commissioner Hunt: The biggest thing I see about that, I know construction wise, if you go to put a lateral field in that 50' area that they're not supposed to touch, your talking a big change, along time for it to settle back down and back to where they need it to be in order to be safe in that area. I don't know if digging in to put lateral fields is even going to work either.

Attorney Dale: You can't get in the 50', even for lateral fields.

Commissioner Hunt: Correct.

Attorney Dale: That's completely off limits to the owner.

Chairman Deapen: So, that same logic would be applicable to 14, 15, and 16? What about 17?

Commissioner Noel: 17 should be okay.

Commissioner Hunt: It's 1.55, you would have to do the math and take off that 50' off the back.

Chairman Deapen: Now right under where you're referring to, for example, on 16 it says 1.01-acre total, underneath it says .73-acre build. Is that what that request is the difference in...

Mr. Sisler: Yes, and if you look at 16 it says .73 actual build, 15 says .76 actual build.

Commissioner Hunt: So, 17 is okay.

Chairman Deapen: 17 should be okay.

Commissioner Noel: Yes, 17 says 1.00 actual build.

Commissioner Hunt: So, 14, 15 and 16 are not.

Chairman Deapen: So, that is going to be a problem.

Attorney Dale: If they use the sewer system, there is no problem.

(Mr. Sisler and Mr. Everhart having own discussion)

Chairman Deapen: Do you guys want to confer for a minute?

Mr. Sisler: Richard Everhart, the owner of this, says that he understands this has been done in Shelby County and they were allowed to put the lateral field in the 50' buffer zone because it's underground. Now I do not know that.

Attorney Dale: We need to see the FAA regulations on it to see if that is allowed.

Chairman Deapen: Review with me why is it not going to hook up to a sewer system?

Mr. Sisler: Lots 10-17 are not zoned R-2, they are zoned R-1. Lot 1-9 are zoned R-2 but they are choosing to stay R-1 so they do not have sewer, they do not want sewer.

Attorney Dale: I think if you can submit the regulations to us to show that within that 50' they allow lateral lines, easements, of course the problem with lateral lines it could end up getting wet which could lead to all kinds of problems if it leaks into that buffer. I actually need to see that in the regulations, not someone's opinion.

Commissioner Hunt: You also get into if something happens with the lines, not just the initial putting them in, it's also the upkeep and the possibilities that are there. Where is lot 18?

Mr. Sisler: It's gone, we lost it due to not having enough room.

Attorney Dale: Something else I noticed, not sure if it affects zoning, but the way this is set up the landowner will have 50' that he can't use but will be paying the taxes on.

Mr. Sisler: To my understanding Bruce Edsten, a pilot with a home there, his leach field is in his taxiway. (Ask Mr. Edsten) Is his taxiway outside the runway?

Mr. Edsten: I have a taxiway easement outside the runway.

Attorney Dale: But that's different than the buffer.

Mr. Sisler: I don't have any other information on there and I don't know. I guess an investigation with the FAA would determine the underground assumption.

Attorney Dale: Get a copy of the CFR's and if it shows that then we can go from there.

Mr. Sisler: I understand, I want it to be covered when someone builds out there, we don't want any problems.

Chairman Deapen: I think all of us in the room understand this is an unusual circumstance. It's not something that we run across.

Commissioner Travis: Lots 1-9, are they going to be on sanitary sewer?

Mr. Sisler: No, they could be because their R-2 but their choosing to stay R-1.

Commissioner Travis: So, it's not readily available?

Mr. Sisler: It's in those lots behind it because that's part of Top Flight and the sewer is very accessible there but they chose to keep it as R-1 on septic because sewer is very expensive.

Attorney Dale: You can't have sewer in R-1?

Mr. Sisler: No not R-1, it has to be R-2. Correct?

Chairman Deapen: No, you can have sewer on R-1.

Attorney Dale: Not in the city.

Mr. Sisler: But R-2 is required to have sewer?

Chairman Deapen: Yes.

Attorney Dale: But in the city you can have sewer on R-1. Those lots would qualify under zoning for sewer.

Chairman Deapen: Other questions from the commission? Do we have anyone signed up for this one?

Admin. Assistant Helton: We do. David Baker.

Mr. Baker: I was just going to be here to support Richard and Kevin incase they had any questions.

Mr. Sisler: These guys are pilots so they can probably answer...

Chairman Deapen: So, you don't have any specific issues?

Mr. Baker: Not at this time. But to your attorney's point, the FAA Regulations, I think there's a guidance in there.

Attorney Dale: We just need that information.

Chairman Deapen: You've heard the recommendations from our counselor, and I think this is an issue we should get resolved before taking final action on it. Does anybody disagree with that?

Attorney Dale: No disrespect for Shelby County, maybe they have the CFR's indicating they can do that, but we have to have that written information for our records.

Commissioner Hunt: I do have a question about this highlighted part in the lease agreement.

Mr. Sisler: You'll probably have to talk to this man or that man about the lease agreement. But what's your question?

Commissioner Hunt: It says, lessee shall keep the premises and the adjoining taxiway easements at Willow Island in the Everhart development mowed on a regular basis during the growing seasons. So, that's the taxiways and premises...

Attorney Dale: It would just be the taxiway.

Commissioner Hunt: That contradicts the notes on the plat.

Mr. Sisler: Say what now?

Chairman Deapen: Your note #1 says taxiway (40') are on private property and should be maintained by owner. She is reading from...

Commissioner Hunt: Number 5F, that says lessee shall keep the premises and the adjoining taxiway easements at Willow Island in the Everhart development mowed on a regular basis during the growing seasons to keep the grass at a height of 5 inches or less. The lessee shall maintain premises in a clean orderly fashion. Anyone who damages the runway or taxiways will be held responsible for the repairs of same.

Chairman Deapen: So, that would appear to be a conflict on who's...then again...

Attorney Dale: That's the language. That's between the owners and ...that's not for us to interpret that lease.

Commissioner Hunt: But it's a part of it.

Attorney Dale: Yes, they need to make it a part of it but the agility of that is what they put in it there could be questions. Again, the fact that the Federal Regulations on dedicating the landing strip and the buffer zones and that's what we need to see. This may be okay in connection with it. There being ask in this case to interpret the lease agreement, that's between the owner and the lessee. Our purpose is to see they have something of record.

Chairman Deapen: I guess I disagree with you because this to me is binding on the plat, and it says the maintenance of the taxiways are the responsibly of the owner. I would interpret that as the owner of the lot.

Attorney Dale: The owner of the lots with easement?

Chairman Deapen: Correct. That says something quite different. That says that the lessee, meaning the Pilots Club is responsible for upkeep.

Attorney Dale: Its going to be between the owner and the lessee. The owner and lessee have to enforce this.

Mr. Sisler: Do I need to say on here that the taxiways (40') are on private property and take off should be maintained by owner?

Chairman Deapen: To me that would clarify...

Mr. Sisler: And let the lease...

Attorney Dale: And let the lease to be maintained in conformance with the lease agreement.

Mr. Sisler: I can change that.

Attorney Dale: This can be up to the leaser and the lessee, and the owners can figure all this out.

Commissioner Hunt: If you're changing the plat can you change the total site data where it shows 18 lots on there?

Mr. Sisler: That's a mistake on my part.

Commissioner Faue: And you have to fix the area.

Chairman Deapen: The reference to 18 in both charts above that says L18 and C18. Are they still needed since you don't have a lot 18?

Mr. Sisler: I'm not sure they go with lot 18, those are just measurements.

Chairman Deapen: Any other questions from the commission? So, your remaining homework is finalizing the issues about the easement on 14, 15, and 16.

Mr. Sisler: If we're able to use the buffer for underground purposes.

Chairman Deapen: Yes. So, we will wait until the next meeting to do this.

Attorney Dale: Can you forward that information to Planning & Zoning before the next meeting?

Mr. Baker: I will find out or have to go to DC for an interpretation on the specific question.

Attorney Dale: Lets see the CFR first then we can go from there. Let's look at the CFR first it might answer the question itself then we can go from there. See if you can get that to us as soon as possible.

(Conversations going on between Mr. Sissler and property owners)

Chairman Deapen: Do you want to do a little recess here? I'm going to consider this a recess. Back in session. So, are we clear on where we are?

Mr. Sisler: I'm going to try and find out some answers.

Chairman Deapen: I'll entertain a motion to continue this.

Commissioner Travis: Made motion to continue the Everhart for Willow Island application.

Commissioner Noel: Second.

Admin. Assistant Helton: Roll called, motion carries.

Attorney Dale: So, that's continued to April 21.

Chairman Deapen: No new business. General questions or discussion? I will not be able to be here at the next meeting.

Commissioner Mudd: Motion to adjourn.

Commissioner Wheatley: Second.

Chairman Deapen: All in favor say aye, meeting adjourned.

Attest:

Secretary

Chairman