

Taylorsville-Spencer County  
Joint Planning and Zoning Commission

The regular meeting of the Taylorsville-Spencer County Joint Planning and Zoning Commission was held May 5, 2022, in the Fiscal Court meeting room located at 28 East Main Street, Taylorsville, Kentucky.

Chairman Deapen called the meeting to order.

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

Chairman Deapen: You have in your packets a copy of the minutes for April 21, 2022. I will entertain a motion to approve those minutes.

Commissioner Clayton made a motion to approve the minutes for the April 21, 2022, meeting as amended. Second by Commissioner Mudd.

Chairman Deapen: Any further discussion from the commission? 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: Old business.

Admin. Assistant Helton: We have the application of Phillip Richard Everhart for Willow Island Phase VI requesting preliminary plat approval and Mr. Sisler is here to speak about the changes.

Kevin Sisler: Sisler & Maggard Engineering representing Richard Everhart. We have made some changes due to some bridges we've had to cross over the last couple of months. The R-2 section which are Lots 1-9 will remain the same and will not change. Our changes are to the R-1 section which are Lots 10-15. If you remember we've had a couple scenarios of the lots that butt to the runway. The new plat if you look at it, now there is no property in the runway or the buffer. Mr. Baker helped us get some information and we've asked a couple of questions to a few people and couldn't get them to comment to allow us to use that property. So, we moved on. The property next to the runway, we had 5 lots, then went to 4 and now we are at 2. In talking to Julie, she said there would probably be a variance needed on Lots 14 and 15 for the 3 to 1 ratio. The information on yours, do you see the red mark? I had moved that off the plat but some how it got back on there from my CAD guy pushing the wrong button. So, I came in and marked that

line out, but it says the taxiway is on private property, that their not to be maintained by The Pilots Club but are to be maintained by the property owner. The Pilots Club rules were recorded, the subdivision covenants are now recorded. The runway Plat V has also been recorded. It discusses where the runways are. On the right side I have access roads, the runway easement size, the right-a-way, acreage, remaining land, then the total land. We've gone from 21 lots to 15 lots.

Chairman Deapen: Questions from the commission?

Commissioner Hunt: You show the remaining land of 21.320 acres. Is that right?

Mr. Sisler: Yes. If you put all that together you come up with 28.312. There's a 50' ROW to the road it will tie into the upper right corner that goes into Top Flight Subdivision. Which the road will be going all the way out to Van Dyke so, we will have two entrances to this subdivision.

Commissioner Clayton: Is there supposed to be a graphic scale on this?

Mr. Sisler: I can add that.

Commissioner Clayton: I just think it should be there. Also, something to point out to the draftsman. I have another question please. The adjacent property lots 185 and 186 have an existing gravity sewer line. Do you see that between 185 and 186?

Mr. Sisler: Yes, that is correct.

Commissioner Clayton: If I'm correct as I look at all the contours here that is actually the low spot, everything drains that direction. Now, why is that sewer run all the way up to the property lines.

Mr. Sisler: Trevor Brown is the one that had this section here. He thought that in the future if someone wanted sewer there, they would have to dig between two lots and the house was already there, so he decided to pay the money to put it there incase someone ever needed to use it. To get to it they wouldn't have to go in between those two homes.

Commissioner Clayton: I think that's very smart. So, what that is saying is he is providing a sanitary sewer that can be tied into.

Mr. Sisler: Yes.

Commissioner Clayton: I guess what my questions is, with what you are bring before us tonight is just septic and not tying into sanitary sewers.

Mr. Sisler: It is.

Commissioner Clayton: Could you talk to me about that?

Mr. Sisler: The property owners at this time are not looking to put sanitary in there. They want to stay with the acreage they got and stay R-1, that may change if someone comes and offers to buy all this property. But it is zoned R-1 and R-2. If you look at lot 1, there is an existing sewer line running across it also.

Commissioner Clayton: In our Subdivision Regulations it tells us that the subdivider shall provide the highest type of sewage disposal facility and it has a list of those types with the number one being public sanitary sewer and treatment plant system. The lowest which is what they really don't want you to do is a septic system. In fact, it goes on to say in all cases wherein trunkline sanitary sewer facilities are available, owner shall be required to install sanitary sewers. So, help us to understand why we shouldn't insist that that's the case.

Mr. Sisler: That's why we designed these lots over an acre, to allow a septic tank.

Chairman Deapen: Wasn't there some input from the owner of the system as well?

Mr. Sisler: I've talk to Jack Kaninberg, who owns the system and some of the property owners have talked to him. Several years back when they were looking to develop this there was a possibility, they would hook to that, and they were kind of in agreement with Jack Kainberg.

Admin. Assistant Helton: We have a statement from Mr. Kaninberg.

Chairman Deapen: Could you please read that please?

Admin. Assistant Helton: Per Jack Kaninberg, operator and owner of Top Flight Treatment Plant, "it is a complicated issue from the standpoint of the Top Flight Sewer System. The sewer system as it is currently constituted is only supposed to serve the Top Flight Subdivision, and anything beyond that would complicate things considerable and increase costs substantially. To summarize, there are legal, regulatory, operational, and financial consequences associated with going beyond the Top Flight Subdivision boundaries at the present time."

Commissioner Clayton: Is Mr. Kaninberg here?

Chairman Deapen: No. I wanted the statement read into the record.

Commissioner Clayton: Can someone tell what the capacity of that treatment plant is?

Mr. Sisler: 75,000 gallons a day. Like I said I've spoke to Mr. Kaninberg several years back. That plant was designed for The Top Flight Subdivision.

Commissioner Clayton: Which brings me back to why... the Top Flight Subdivision was owned by Trevor Brown...

Mr. Sisler: He bought portions of Top Flight. It was John Knasel and that bunch, and they were going to put a golf course and stuff.

Commissioner Clayton: I see a sanitary sewer in that subdivision that runs all the way up to this one. If they had their limitations, why would they take it not only there but as you pointed out it runs to this one. That would lead me to think they were anticipating expansion.

Mr. Sisler: Trevor knew that lots 1-9 were R-2. The lots back here 186 and 187, getting in between houses and structures already, that would have been ugly. On a typical lot there's a 15' utility easement on each side of the property line. So, on lot 186 and 187 there would have been a 30' utility easement between the two pieces of property.

Commissioner Clayton: You said 75,000 gallon a day was the capacity. Do you know where it is?

Mr. Sisler: I do not know that.

Commissioner Clayton: Do you know the number of homes it has on it?

Mr. Sisler: No.

Commissioner Clayton: Are you sure it's 75,000?

Mr. Sisler: I'm not 100% sure.

Commissioner Clayton: I like the layout and larger lots. I'm just torn because my subdivision regulations are telling me you need to tie into a sewer plant if its available. If Jack Kaninberg was here to tell us for himself that there no more capacity. So, I'm struggling with that.

Chairman Deapen: The regulations are what you say it is. If we have a scenario where it's a privately held company and the owner does choose not to make that available, then is that an options?

Mr. Sisler: It is a private sewer system.

Chairman Deapen: I don't think we can force him to say yes.

Commissioner Clayton: I would have to turn to our attorney. But I would say this its still regulated by the Division of Water. So, if I have a private road but its open to the public, there's still responsibilities I take on with that.

Mr. Sisler: I would also say these lots 1-9 are larger tracts and if they were forced to hook onto the sewer, they would not stay with the large tracts.

Commissioner Clayton: I understand that. The developer is in it to make money. I have no problem with that. My problem is no matter how much we like this we need to make sure we're comfortable that the regulations tell us if there's sewer available, we have to tie in.

Chairman Deapen: I think it hinges on the word available. Just because it exist there doesn't mean its necessarily available.

Attorney Dale: It sounds like from that statement from the owner of the plant, it's not available.

Commissioner Clayton: He didn't actually say that.

Attorney Dale: That's the way I interpret it. That's my legal opinion.

Commissioner Travis: I'm sure you looked at that treatment plant. Help me out, theres one plant that's being used and theres one beside it for backup. Is that still there?

Mr. Sisler: The last time I was there is when John Knasel and them had lost it to the bank. They approached the city about running that plant, the bank did. I went out an evaluated that sewer

plant. They were provided a list of items that would have to be done to bring it up to the Cities regulations and codes. They chose not to do that.

Commissioner Travis: When that was set up, they had a bunch of apartments...

Mr. Sisler: It is a clear water stream plant. What that means is what ever it discharges it can go into a blue water stream.

Commissioner Travis: There was a good acre set for

Mr. Sisler: It was set, but it's got its limits. There was a lot of worked that needed to be done out there. This Jack Kaninberg bought this plant and he used to work for the Division of Water. Him and a couple other guys bought a few of these treatment plants, some were in bad shape, and some were not. I haven't been to that plant since years ago when I went to look at it and I don't know if they made the corrections. But the Division of Water only comes once a year to check that.

Commissioner Travis: When that was setup it was setup for everything that has been discussed plus a huge amount of acreage for apartments. That was all setup for that plant. So, I was told.

Mr. Sisler: It was designed for that golf course, and I believe, and I might be wrong but they built a whole lot more homes out there because that golf course is not there. They took some of that property that was supposed to be a fairway and built homes. I have no idea how many homes are out there or how many were originally designed for that plant.

Chairman Deapen: That's the way it's been represented to us in the past with other developers that have come in here and said this was supposed to be a golf course and now I want to do this. You are correct on that.

Mr. Sisler: Other than that, I don't have any other information I can give you.

Commissioner Mudd: So, forgive me if I'm wrong or I missed it and you may not know the answer to this. Doesn't that plant already have issues?

Mr. Sisler: Just my opinion. I think its got maybe an operation problem, but I don't think it's a capacity problem.

Chairman Deapen: Has that plant been fined for irregularities to your knowledge in the last 2-3 years?

Mr. Sisler: I know they had a pump station that went down about a year ago or longer. But Jack Kaninberg got fined because they lost power down at the pump station and it overflowed and went into that little creek. They had to put bougies and suck all that stuff up. You hate that that happen, but it does happen. No one knew that he had lost power.

Commissioner Wheatley: So, the treatment plant was strictly for the Top Flight planning development. Is this Top Flight?

Mr. Sisler: No, this is Willow Island.

Commissioner Wheatley: So, they have the right to say this is not Top Flight so they can't connect to it, right?

Mr. Sisler: I would say yes. But I'm sure you could get some attorneys to argue either way.

Commissioner Clayton: That's my point you have sanitary sewer all the way up to this property and in fact part of it runs through at Lot 1.

Chairman Deapen: Any further discussion or questions? So, we have anyone to speak on this?

Admin. Assistant Helton: David Baker signed up incase Mr. Sisler needed information.

Chairman Deapen: Any further discussion or questions? If not, I would entertain a motion, if you're going to make a motion to approve make sure we put the variance in on 14 and 15.

Commissioner Hunt: I make a motion to recommend we approve the Preliminary Plat on 28.212 acres proposing 15 residential lots located at the intersection of Curtis Way and The Landings in Willow Island. The applicant was Phillip Richard Everhart for Willow Island Phase VI. With a variance for lots 14 and 15 for the 3 to 1 ratio and a variance for lots 1-15 for the front setback line of 30 feet.

Commissioner Wheatley: Second.

Chairman Deapen: Any further discussion? If not, read the roll.

Admin. Assistant Helton: Commissioner Clayton and Commissioner Mudd opposed; all others were in favor.

Chairman Deapen: Motion carries. Any other old business?

Admin. Assistant Helton: No.

Chairman Deapen: New Business.

Admin. Assistant Helton: We have the application of Micah & Stephanie McGaughey requesting R-1, residential to AG-1, agricultural on 10.195 acres located at 410 Cedar Point Road – aka. Amended Lot 4 of Cedar Point. The comprehensive plan recommended land use map indicates the area should be low density residential. In September of 1981, 159 acres was zoned R-1, residential by Allen Blacketer Company. The applicants are requesting to combine their two lots and zone the property agricultural. This will allow them more uses for their land.

Micah McGaughey: I'm speaking for myself and my wife, Stephanie McGaughey. We bought property here about 3 years ago. To my knowledge there are two lots that are already AG-1 on this road in the neighborhood. One has been zoned AG-1 since 1982. Recently two other lots right up the street were changed over. But the reason I want to change is cost savings, tax purposes. We don't plan on farming anything. We have 21 acres and we're starting with the 10.2 up front to see how everything goes, see what cost saving is and potentially changing the other.

Chairman Deapen: Your HOA doesn't say anything about what zoning you're in?

Mr. McGaughey: It doesn't say anything as far as restrictions against changing the zoning. Its just talking about following HOA restrictions.

Chairman Deapen: So, in other words, its usage rather than legal designation?

Mr. McGaughey: Yes.

Commissioner Wheatley: Is there just one house on the property?

Mr. McGaughey: Yes, a house and a pole barn.

Commissioner Hunt: So, do you currently live on the left-hand side where the house and metal garage are?

Mr. McGaughey: Yes.

Commissioner Hunt: So, is the lot 6 that is right next to it yours as well?

Mr. McGaughey: Yes, lot 6 and 7 are both mine. Lot 3 is the house before you get to mine.

Commissioner Clayton: What are they zoned?

Mr. McGaughey: R-1.

Commissioner Clayton: Those are zoned R-1 and you want to make them AG?

Mr. McGaughey: Yes.

Commissioner Clayton: Will you go ahead and do the other two later?

Mr. McGaughey: Yes, potentially.

Commissioner Wheatley: So, to my understanding no one on the HOA has designation on how big the lots need to be or should be?

Mr. McGaughey: No, just the cap of 10 acres I think is what it has to be.

Commissioner Wheatley: A minimum of 10 acres.

Mr. McGaughey: We've got 21 or something. We just combined two 5-acre tracts so we could change it.

Commissioner Hunt: Interesting, are they making you do that?

Mr. McGaughey: No, this is just something we're doing for cheaper taxes, farm tags, get a farm number.

Attorney Dale: The state requires you have 10 acres to change to farm.

Commissioner Hunt: But it doesn't have to be combined, they have to be right next to each other and titled in the same name. But it can be a standalone deed and a standalone piece of property. I'm speaking from my own experience that I have two pieces of property right beside each other, they are both in my name and I did not have to combine them to have that.

Mr. McGaughey: Wish I had known that.

Chairman Deapen: So, what you're saying Commissioner is that even if it remained R-1, if it meets the qualification that you just described and this property seems to fit, they can then apply and take advantage of those benefits? It doesn't have to be AG?

Commissioner Hunt: Yes.

Attorney Dale: I would agree with that.

Commissioner Hunt: They changed my tax rate on my piece of property because of that. All I had to do was title both pieces of property the same way.

Attorney Dale: In the state regulations farm service used to be 10 acres, but its not anymore. You can have an acre if you're doing farming on it for farm service purposes. But to get a tax break through the state on the PVA you have to have at least 10 acres continuous, whether its in one lot or two or nine and you can do AG-1 and R-1 zoning. My farm is zoned R-1 but I'm doing agriculture, so you don't necessarily have to be zoned AG-1 or AG-2 to be able to get the state, you just have to have 10 acres and doing the farm services at the State Department.

Mr. McGaughey: But to get the tax breaks, you do have to switch the zoning?

Attorney Dale: No.

Commissioner Clayton: The PVA still looks at your R-1 part because it is continuous with the rest?

Attorney Dale: Because I'm doing farming on it.

Mr. McGaughey: So, are you still protected by The Farmers Protection Act?

Attorney Dale: Yes.

Mr. McGaughey: If you're not zoned AG?

Attorney Dale: Yes. If your doing farming as an AG-1 zone, then your doing farming. You still come under the State Agricultural Community, then the county has an ordinance for farming. You don't necessarily have to have AG-1 to do agriculture, you can do that in R-1 if you have enough land. You have to have 10 acres to get the tax break, but you don't necessarily have to have that to do farming. Unless it's prohibited in your restrictions of your subdivision. Sometimes they don't want any animals.

Commissioner Hunt: I have no problem with combining the two lots and changing it. I just wish you could have saved you some money. Can I ask how many lots are on this private road?

Mr. McGaughey: Forty.

Commissioner Hunt: So, it is a paved road?

Mr. McGaughey: It's a private road.



Attorney Dale: So, it a private road, not a county road?

Mr. McGaughey: It's a private road.

Attorney Dale: I'm just wondering how you have 40 lots on a private road?

Mr. McGaughey: It was established in 1982 so its grandfathered in.

Commissioner Clayton: Since it appears that what he wants to accomplish, thanks to Attorney Dale and Commissioner Hunt, he could have accomplished it without going through with this zone change. Could we possibly return his fees if he wants to withdraw this and stop?

Mr. McGaughey: Well, I've already paid to have the survey done. I can't get that money back.

Commissioner Clayton: How much was your fee here? I'm just trying to help get some money back.

Mr. McGaughey: \$350.00.

Commissioner Clayton: Ok. Forget that.

Chairman Deapen: Any other comments or questions from the commission?

Chairman Deapen: Do we have anyone signed up?

Admin. Assistant Helton: No.

Tim Stevens: I'm not signed up but would like to say something if I can. I'm not opposed. 333 Cedar Point Road. I came before the commission last fall to have lots 40 and 41 zoned agriculture and you guys approved that and there's another neighbor on your docket here. I'm very much in support of this and for the one after this one.

Chairman Deapen: I will entertain a motion.

Commissioner Faue: I make a motion to recommend to rezone the applications of Micah & Stephanie McGaughey requesting a zone change from R-1, residential to AG-1, agricultural on a 10.195 acre tract of land located at 410 Cedar Point Road. The recommended land use map in the comprehensive plan recommends low density residential and the change would be in compliance with the comprehensive plan. This is combining lots 4 and 5.

Commissioner Travis: Second.

Chairman Deapen: Any other discussion from the Commissioners? Read the roll.

Admin. Assistant Helton: Rolled called, all were in favor.

Chairman Deapen: Motion carries. Additional new business.

Admin. Assistant Helton: We have the application of Joshua Mark Nash & Nicole Nash requesting R-1, residential to AG-1, agricultural on 10.195 acres located at 479 Cedar Point Road – aka. Amended Lot 37 of Cedar Point. The comprehensive plan recommended land use map indicates the area should be low density residential. In September of 1981, 159 acres was

zoned R-1, residential by Allen Blacketer Company. The applicants are requesting to combine their tow lots and zone the property agricultural. This will allow them more uses for their land.

Nichole Nash: This is my husband Joshua Nash and we live at 479 Cedar Point Road. What we are trying to do is and if it needs to be on record its actually 10.29 acres. Lot 38 was broken up into Lot 38A and 38B so its Lot 37/38A and 38B. We are trying to do the same thing as the McGaughey's are doing. We are wanting to convert 10.29 of our 30 acres from R-1 to AG-1.

Chairman Deapen: And you don't have structures on it at this point?

Mrs. Nash: So, we have our house on this property and a very small garage.

Chairman Deapen: Any questions from the commission?

Attorney Dale: I'd like to make a statement. I like seeing tracts going to larger tracts.

Mrs. Nash: Originally from what we understand this neighborhood was supposed to be lakefront properties, when Taylorsville Lake was to be built. But as you can tell from the picture Taylorsville Lake is not in our backyard.

Commissioner Wheatley: On some of the back lots you can see the lake.

Mrs. Nash: You can see it but it's a far walk.

Attorney Dale: There's some lakeview properties but not lakefront.

Chairman Deapen: Any other questions from the commission? For the record we will ditto the remarks from the supporting witness.

Commissioner Hunt: I do have a question on the plat. Its show a 15' drainage easement. Was that already there and its just noted on here?

Mrs. Nash: Yes.

Commissioner Clayton: How long have you all lived there?

Mrs. Nash: We moved in, in July of 2019.

Chairman Deapen: Any other discussion from the commission? If not, I'll entertain a motion.

Commissioner Wheatley: I make a motion to recommend for Joshua Mark Nash and Nichole Nash requesting a zone change from R-1, residential to AG-1, agricultural on a 10.29-acre tracts of Lot 38A, 38B and 37 of land located at 479 Cedar Point Road. The recommended land use map in the comprehensive plan recommends low density residential and the change would be in compliance with the comprehensive plan and there's no one to speak against it.

Commissioner Mudd: Second.

Chairman Deapen: Any other discussion from the commission? Read the roll.

Admin. Assistant Helton: Roll called, all were in favor.

Chairman Deapen: Motion carries.

Chairman Deapen: General questions or discussion?

Admin. Assistant Helton: Our next meeting is May 19<sup>th</sup>.

Commissioner Travis: Motion to adjourn.

Commissioner Faue: Second.

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

Attest:

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Secretary

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Chairman