

Taylorsville-Spencer County
Joint Planning and Zoning Commission

The regular meeting of the Taylorsville-Spencer County Joint Planning and Zoning Commission was held December 15, 2022, in the Fiscal Court meeting room located at 28 East Main Street, Taylorsville, Kentucky.

Chairman Deapen called the meeting to order.

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

Chairman Deapen: In your packets you have a copy of the minutes from the last meeting for November 17, 2022. I will entertain a motion to approve those minutes.

Commissioner Hunt: Made a motion to approve the minutes for the November 17, 2022, meeting.

Commissioner Mudd: Second.

Chairman Deapen: Discussion, roll call please.

Administrator Sweazy: Roll called, motion carries.

Chairman Deapen: Any committees?

Administrator Sweazy: None.

Chairman Deapen: For our bylaws, people who intend to speak, need to be sworn in.

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

Chairman Deapen: Old Business.

Administrator Sweazy: We have the application of **Plum Creek Agriculture, LLC** requesting AG-1, agricultural to R-3, residential on 5.000 less .71 in dedicated right-of-way, total 4.29 acres located on Whitfield Lane aka. Tract 10, Whitfield Farm Division. As this being old business, we've had it here before. The commission requested that the applicant bring back a new survey to show the exact location of that right-of-way. So, they have provided that. There was also the question of whether they have any intention of dividing the property or not. So, with the survey brought in you can see what their proposal is. After the last meeting this is the plat that was presented to us for tonight's meeting showing the separate tracts as well as the 60' right-of-way that was retained by the previous landowner. The applicant is present.

Michael Morgan: 17860 Deer Trace Lane, Fisherville, KY. We recently purchased this land and found out from Julie we couldn't apply for a building permit due to it being out of compliance with zoning. It became known to us that we didn't own the full five acres. That's why we're back here today with a new plat.

Chairman Deapen: Questions from the commission.

Commissioner Hunt: Now this is the same adjoining property here, Tina Dowell. Because wasn't there a question about it being over on her property?

Mr. Morgan: Yes, that was Tina Dowell and it was the existing driveway that the previous owner was using to cross over her land. They found the pin and it's marked now.

Commissioner Travis: Are you still sticking with you're not willing to do any binding elements as far as the number of residence you put on this?

Mr. Morgan: We really don't want to but if the commission ... I felt like R-3 zoning fit to what the property was. I didn't want to put any restrictions on it but if that's the only way we can get a building permit is if we put binding elements on it. We want to proceed forward. I just felt it was a restriction on my property that I didn't want.

Commissioner Hunt: On that one acre, is that where the old trailer was?

Mr. Morgan: Yes.

Chairman Deapen: In response to Commissioner Travis question, didn't you previously testify that you would be willing to specify there would be no duplex's, it would be single family dwellings?

Mr. Morgan: Yes.

Chairman Deapen: Is that still the condition?

Mr. Morgan: Yes. The only thing that would happen right now would be to build on that single acre tract right now.

Commissioner Travis: Are you saying you don't want to put any binding elements on there saying only two residences, one on each tract?

Mr. Morgan: I felt like I was walking into a trap. Because if down the line it's divided there might be some confusion that that might be a tract of land. I don't know what the future is. I didn't want to put anymore binding elements on it.

Commissioner Travis: That wouldn't be correct to my understanding. You said you're going to put two residents then you would be allowed one on each tract. But you said I'm not willing to do that then that's free game.

Administrator Sweazy: At this point, the way he's asking for the zoning he would be allowed one per tract. If he's going to do two tracts like he is showing here, he can do a home on each tract. He said he's willing to do something to state that it wouldn't be multifamily. Whether they or anyone bought it in the future and decided they wanted to divide it again they would have to come back before the board.

Commissioner Travis: When you first came up here you were in agreement with putting some kind of restriction then later on you decided not.

Chairman Deapen: You said several times that you don't want binding elements, but you agreed you wouldn't put multifamily dwelling on there. So, you expect that to be a binding element to go in the motion?

Mr. Morgan: Yes.

Commissioner Hunt: This is the one that all the neighbors zoning is out of compliance also?

Administrator Sweazy: By today's guidelines the whole farm division is out of compliance, its nonconforming. Which it can stay that way as long as they don't make a change. But when they make a change, they will have to come in and get their zoning fixed too.

Commissioner Hunt: But in realty there's probably a lot more R-3 around it?

Administrator Sweazy: A lot of them could go to an AG-2 because they're 5-acre tracts. A lot of those tracts have manufacturer homes on them. So, if they ever wanted to divide in any way, they would have to ask for this same zoning class as well.

Commissioner Brown: A mobile home park would have to have 5 acres, so that's out of the question. So, if he puts binding elements on there for no duplexes or multifamily. Then we're looking at just single-family homes. So, you've got one single family home per parcel and if he wants a third, then it will be classified as a subdivision and he's going to have to subdivide further at a later date.

Chairman Deapen: Doesn't he also have to widen the road?

Administrator Sweazy: Yes. I don't know what the time frame is for that.

Commissioner Brown: There's nothing in the subdivision regulations that would restrict them from subdividing further?

Chairman Deapen: We asked that last time and were told no. Any other questions from the commission?

Tina Dowell: 1826 Whitfield Lane. I'm on the west side of the property. My biggest concern is the lack of transparency going on with the communication from Michael and Bobby Smith. When they showed up with heavy equipment to cut the new road and a surveyor. I went over and asked what they were up to. Surveyor, I'm here to cut out 4 different lots because they're going to build 4 different homes up here. Mr. Smith said we're going to start with two. But they had been in the back field behind me which is where the right-of-way road goes to Mr. Hoene's back field. They had been driving around back there and to me if you're only interested in this 5 acres and you're dividing so you can put two house there, you wouldn't have been in that back field. I think we're being deceived to the point that this right-of-way road is going to this back field so they can put a manufacturer home community back there. So, now our little county road and our little community that we have and bought into has turned into something different.

Chairman Deapen: But you did see this and the scenario you just described can't happen there.

Mrs. Dowell: So, you're telling me that even though they got a right-of-way to that back field and they buy that back field they can't turn it into...

Chairman Deapen: I can't say what they can do on buying another piece of property but on this property...

Mrs. Dowell: On this piece of property, we're looking at only two maximum homes that can go on this piece of property?

Chairman Deapen: The way its configured now that's correct.

Commissioner Brown: They would have to come back through to have a third and if they want to do anything with the field behind them that's a totally different issue than what we're talking about here.

Mrs. Dowell: I just feel it's opening a can of worms that maybe our little community doesn't want to really want to be into where we have a mobile home park behind us because we have one down the street that is awful. Mr. Smith told me he had to worry about the poor people. I understand that but it's not my job to have them in my backyard. Our little road can't handle the heavy equipment or the traffic. I bought this place as my piece of heaven and now all the sudden it's turned into maybe a whole different ballgame then what I thought it could be.

Chairman Deapen: Let's be clear that what's before us today that won't happen.

Mrs. Dowell: That can be two homes and just the right-of-way?

Chairman Deapen: Yes.

Administrator Sweazy: Rolando Souza.

Rolando Souza: I've heard enough.

Tim Brewer: 463 Whitfield Lane. I'm the Magistrate for the Waterford District. What's the maximum number of homes that can go on that. I understand two at this time. But if they come back to rezone, what's the maximum number of homes that can be put on there.

Administrator Sweazy: I would say four maximum because there's not enough ground for a fifth one because that right-of-way took part of the acreage from them.

Mr. Brewer: That's something we're going to have to look at in the future because that's probably going to happen. Since I've been on Fiscal Court, I've seen many of these come through. What I'd like to see put in the zoning rules is the will of the people. There's nothing in there that says anything about the will of the people. We can pack this room with as many people as we want to and as long as the developers abide by the rules of the zoning commission, they can do whatever they want to. I always thought the will of the people meant something. I've come to the conclusion that it really doesn't. That bothers me because I feel like the will of the people should stand before any rules or regulations.

Chairman Deapen: Discussion from the commission.

Commissioner Travis: How wide is the lane in front of this tract?

Chairman Deapen: I've been out there but didn't measure it, but I would guess about 11 feet.

Commissioner Travis: How far is it from this tract to the state highway?

Administrator Sweazy: Maybe 1,500 feet.

Commissioner Hunt: I don't see any of the utility easements laid out on this plat like the original one and that was supposed to be around each tract and was supposed to be 30'.

Administrator Sweazy: That's the digital copy. The true copy that was brought in shows them.

Chairman Deapen: Any questions? I will entertain a motion. Am I correct, if we don't make a motion that it's forwarded to Fiscal Court without recommendation?

Administrator Sweazy: I do believe so.

Chairman Deapen: Our options are to approve it or deny it or not recommend it.

Administrator Sweazy: I believe KRS-100 says if we don't act on it, it becomes approved within so many days.

Commissioner Brown: Do we want to see if the developer has anything else to say?

Mr. Morgan: I'm sorry this has been such a big issue for you. If you guys think it needs to be R-1 zoning, that's fine. I didn't see anywhere that it was written that I couldn't subdivide that property. All I'm asking to do is cut it into two pieces right now.

Commissioner Wheatley: With you saying that, are they okay with...

Mr. Morgan: They don't want a trailer park behind their house.

Commissioner Wheatley: That's not up to you, that's not yours.

Mr. Morgan: It's not mine to access.

Commissioner Wheatley: My thing is if you don't want a trailer park back there. I don't know how many acres it is; the land could be for sale. You can buy it and put whatever you want on it. When you buy land, that's your right. I think if you said it's going to be two houses or two dwellings only, I think they would be okay.

Mr. Morgan: I thought we already determined that's what it can be. If that's what you guys want it to be. With an R-1 zone, if that's what the commission would recommend and that's something you would compromise with and if that's the compromise, they have to have to be satisfied. I don't feel like it fits an R-1 category, I felt like it fits an R-3 category. I thought that was a reasonable request, I feel like I'm being pushed around on property that I own.

Attorney Dale: I think the question is possibly like two residents you have on that, is somewhat satisfactory. It's a question of further dividing it after that. I think that's the concern. It's out of character for that area.

Commissioner Brown: So, let's say you do R-1 on both of those. There's nothing to say that later on down the line he can't ask to divide further even with the R-1.

Mr. Morgan: We just came to get a building permit. We felt it fit R-3 and that's why we requested it. If the commission thinks R-1 would be best for it...

Commissioner Brown: I think R-1 is best for it. Everyone here might approve of that now.

Attorney Dale: But they still have the question of further subdividing it. That's the issue.

Mr. Morgan: I guess I feel like that would be my right.

Commissioner Travis: That's your right to ask whatever you like but if you stated if it remained R-3 you're willing to restrict it to two dwellings on those two tracts.

Mr. Morgan: I didn't want the stigma to that tract. That it could only be one sole property for the rest of its life. I don't want to put any more restrictions on it. If we can do R-1 with no restrictions, I'm okay with that.

Administrator Sweazy: I thought the original proposal for the R-3 was because there were other manufactured homes in the area, and he wanted to have the ability that if they took the manufactured home off that property they would have the ability to put a manufactured home back on it if that's what he chose. But if he goes to R-1 he won't be able to do that, it would have to be site built only.

Mr. Morgan: I really don't have any intention of putting a manufactured home on there and would just rather finish this today.

Chairman Deapen: So, do we have a motion to make it R-1?

Commissioner Brown: I make a motion to rezone to R-1

Someone in the crowd ask to speak and were told the Commission had the floor and was closed to public comment.

Chairman Deapen: Go ahead and add to that.

Commissioner Brown: Make a motion to recommend to rezone the application of Plum Creek Agriculture, LLC requesting a zone change from AG-1, agricultural to R-1, residential on a 3.29 acre tract and a 1.00 acre tract and the .71 is dedicated right-of-way. Tract 10-1 consisting of 1.00 acres and tract 10-2 consisting of 3.29 acres located on Whitfield Lane aka. Tract 10, Whitfield Farm Division. The recommended land use map in the comprehensive plan recommends medium density residential and the change would be in compliance with the comprehensive plan.

Commissioner Wheatley: Second.

Chairman Deapen: Further discussion, read roll.

Administrator Sweazy: Roll called, Commissioner Faue was no, all other Commissioners were a yes, motion carries.

Chairman Deapen: New business.

Mr. Brewer: Since this will be my last meeting as of next Monday. I would like to thank you for all the hard work you all do. I know this is not easy. So, I do want to thank you all for all you do.

Administrator Sweazy: We have the application of **Wayne Sweasy** requesting AG-1, agricultural to P-1, professional offices district on 2.00 acres located on Industrial Drive. The comprehensive plan recommended land use map indicates the area should be mixed use. No previous action. Mr. Sweasy is requesting this zoning specifically for a senior living facility. He is currently working with BeeHive Homes to make this possible once the zoning is complete. Mr. Sweasy is also in the process of requesting the City of Taylorsville to annex this land in as part of the city. He is also retaining Tract 3 for a future right-of-way between which is now the original Country Mart and this property.

Eric Sherrard: 4116 Woodmark Park Lane, Louisville, KY. I currently own BeeHive Homes in Goshen, KY. It is similar to what we would like to do here in Taylorsville. We are proposing a 20-room facility.

Chairman Deapen: Questions from the commission.

Commissioner Mudd: Is this like the one on Smyrna?

Mr. Sherrard: Its similar.

Commissioner Mudd: Its assisted living not nursing home?

Mr. Sherrard: Correct.

Commissioner Wheatley: What's the age?

Mr. Sherrard: The majority of the folks are seniors, 70-100 plus. I've had younger but that's a rare occasion.

Chairman Deapen: Anyone signed up to speak?

Administrator Sweazy: No. Is there anything you would like to add Wayne as the property owner?

Wayne Sweasy: I own the farm behind Country Mart. This is a good fit for us and the community. This is a state-of-the-art facility and everything I've heard has been positive. I'm in total support of it. Country Mart is good with it.

Commissioner Mudd: On the entrance, that gravel road that goes on to your farm. Will that road need to be upgraded?

Mr. Sweazy: Its black top up to our road to the farm. So, they will be using the blacktop portion of it. I am keeping a 80-foot section between Country Mart and BeeHive for potential future development.

Chairman Deapen: Discussion from the commission. I'll entertain a motion.

Commissioner Faue: I'll make a motion to recommend to rezone the application of Wayne Sweazy requesting a zone change from AG-1, agricultural to P-1, professional offices district on a 2.00 acre tract of land located on Industrial Drive. This will be going to the City of Taylorsville. The recommended land use map in the comprehensive plan recommends mixed use, the change would be in compliance with the comprehensive plan and there's no one here to speak against it.

Commissioner Mudd: Second.

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

Administrator Sweazy: Roll called, motion carries.

Chairman Deapen: New business.

Administrator Sweazy: We have the application of **Thelma Boggs** requesting AG-1, agricultural to R-3, residential on two separate tracts, Tract 5A consisting of 2.008 acres and Tract 5B consisting of 3.194 acres located at Highgrove Road and Gordon Drive. The comprehensive plan recommended land use map indicates the area should be medium density residential. In September 1990, the administrator signed off on the plat for approval. There is a note on the plat that specifies that entrances from Lot 5 must come off Gordon Drive not Hwy. 248. The property was divided prior to the 1992 Regulation changes where AG-2 was established, therefore the tract is currently zoned AG-1. The applicant is requesting to create two separate tracts. Tract 5B has an existing mobile home, she is planning to deed this tract to her son. Tract 5A is currently vacant and is requesting this tract be created to deed to her granddaughter to place a home.

Attorney Charles Tichenor: For the applicant Thelma Boggs. She sends her regrets of not being here, but she lives in TN. The only thing I will add to what Julie said, so we don't have any miscommunications. You can put a binding element of no multifamily and one residential dwelling on each lot. She's just doing some family estate planning. Her son already lives on 5B. 5A will be transferred to her granddaughter sometime in the future.

Chairman Deapen: Do we have anyone signed up?

Administrator Sweazy: No.

Chairman Deapen: Discussion from the commission? I'll entertain a motion.

Commissioner Wheatley: I make a motion to recommend to rezone the application of Thelma Boggs requesting a zone change from AG-1, agricultural to R-3, residential with binding elements of one dwelling per tract. Tract 5A and 5B with no multifamily dwellings on them. The entrances must be off Gordon Drive and there's no one here to speak against it.

Commissioner Travis: Second.

Chairman Deapen: Any further discussion? Read roll.

Administrator Sweazy: Roll called, motion carries.

Administrator Sweazy: Under general questions and discussion we do have some regulations to look at for consideration. Jacob has worked hard on this. We have the total document as Article V but really all we're looking at is page 42, Single-Family Townhouse District, and part of page 43. I'll let Jacob explain and take it from here.

Commissioner Brown: I thought R-1T would be the intent of it. I wanted to follow the guidelines more of single-family homes. Part 1 of uses permitted; you need that in there. If you name it two do you actually need to go further than that and name it three? Two is very similar to a duplex, could that be mistaken as a duplex? So, I think making that number three makes more sense and I would make that change. Then 12 units seems to be the number Nationwide and around surrounding counties.

Chairman Deapen: What if we added a condition on that that said the commission could expand that? Don't we have the ability to override what the regulations say?

Attorney Dale: I think the Board of Adjustment does.

Commissioner Brown: I think the only case you would go further than twelve would be if geography you had to go a long distance. You might be able to add some verbiage to some effect to give us the ability to make that change if we had to.

Administrator Sweazy: When I read this, I questioned him about something too because of the last word development. This is just saying they can't have more than twelve units attached to one another. There might be something we need to check on with that too, such as fire codes.

Commissioner Brown: We can strike the word development in there; we don't need that verbiage in there.

Chairman Deapen: Maybe we can modify it later on. Probably better to just leave it the way it is.

Commissioner Brown: So, on part b, temporary real estate sales offices. It is either going to be two years from issuance of building permit or when all the lots are sold, whichever comes first. Maybe we do 3 years instead of 2 years. That's a year and a half to build and a year and a half to lease.

Administrator Sweazy: Is that per set of units?

Commissioner Brown: It needs to be per development, the entire development.

Attorney Tichenor: I assume these are true townhomes?

Commissioner Brown: Yes.

Attorney Tichenor: They are fee simple to the outside wall.

Attorney Dale: Its where the lot is.

Attorney Tichenor: Depends on how the plat is drawn. Most of the ones I've dealt with, the lot is the building and everything else is the common area. You own wall to wall basically. The only thing that strikes me on the development of the offices. You remember back in 2008 when everything completely stopped. If a developer comes in and says okay, we're going to prove your townhome concept. Whatever you say you're going to build, you have 2 years after its completed to do that. Then at that point they have to come in and get the next set of buildings platted. If you've got a 20-acre development of townhomes. I don't know if we'll ever have that out here or not but if we do and we hit a recession, they're not going to start the next 10 units, they're going to stop. So, try not to pin yourself in a hard corner if you can give yourself some wiggle room or put in a thing for good cause shown they have to come in after a certain amount of time if they want to keep the sales office open.

Chairman Deapen: I think there's a lot of wisdom in that.

Administrator Sweazy: Could we not leave it within the 2 years from issuance of building permit for the development with conditional use permit? Then they can come into the BOA and ask for another year.

Attorney Tichenor: Then the BOA could set a time.

Commissioner Brown: So, temporary real estate sales offices for the sale of lots, located only within the development for which said lots are located; to be removed at the end of 2 years from issuance of building permit for the development or extended with a conditional use permit.

Attorney Tichenor: The clock does not start until the building permit is issued.

Commissioner Brown: Accessory uses allowed says private garages and sheds so long as they are of similar construction of the residential structures and parking areas. Swimming pools, golf courses, and other private recreational facilities. Home offices and home occupations with a conditional use permit. Conditional uses allowed would be permitted in R-1 Single Family Residential. Dimensional Requirements:

Attorney Tichenor: It will be dictated by how you want the developer to present it to you all. You have to get it defined down to what you're looking at. It comes down to how you all want it set up within the county.

Recording system shut off...More discussion was made about dimensional requirements, setbacks, parking...

Administrator Sweazy: Our next meeting is January 5, 2023. We will also have elections of officers for 2023.

Commissioner Travis: Motion to adjourn.

Commissioner Faue: Second.

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

Attest:

Secretary

Chairman