

**BOARD OF ADA COUNTY COMMISSIONERS
MINUTES OF THE PUBLIC HEARING
WEDNESDAY, JULY 9, 2014
6:00 P.M.**

The Board of Ada County Commissioners (Board) met this date in the Ada County Public Hearing Room of the Ada County Courthouse Complex. Staff members present: Mark Perfect, Brent Danielson, Brent Moore and Diana Sanders, Development Services; and Amber Ellis, Prosecuting Attorney's Office. Minutes Recorder: Angel Dicus.

I. IN THE MATTER OF CALL TO ORDER:

Commissioner David L. Case called the meeting to order at 5:58 p.m.

II. IN THE MATTER OF ROLL CALL:

Commissioners David L. Case, Jim Tibbs and Rick Yzaguirre were present.

III. IN THE MATTER OF CHANGES TO THE AGENDA:

There were no changes to the agenda.

IV. IN THE MATTER OF UNFINISHED BUSINESS:

- 1. 201301789-S – WILLOW CREEK SUBDIVISION, FINAL PLAT:** A request for a final plat for 6 lots. The property is located at 4141 and 4435 N. Willow Creek Road; Section 32, T. 5N R. 1E. (*Public Hearing Closed; Tabled from 6/16/14 PH Follow-up Meeting*)

ACTION: J. TIBBS MOVED TO REMOVE APPLICATION NO. 201301789-S WILLOW CREEK SUBDIVISION, FINAL PLAT FROM THE TABLE FOR CONSIDERATION. R. YZAGUIRRE SECONDED. J. TIBBS, AYE, R. YZAGUIRRE, AYE AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

D. Sanders presented the final plat for signature.

ACTION: R. YZAGUIRRE MOVED TO APPROVE THE FINAL PLAT FOR APPLICATION NO. 201301789-S WILLOW CREEK SUBDIVISION BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT; AND AUTHORIZE THE CHAIRMAN TO SIGN AND STAMP THE PLAT ON BEHALF OF THE BOARD. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

IV. IN THE MATTER OF NEW BUSINESS:

- 1. 201400337-A – LAYNE THORNTON:** An appeal of the Planning & Zoning Commission's approval of a conditional use and master site plan for a cemetery. The property is located at 15000 S. Cloverdale Road in Section 34, T. 2N R. 1E

D. Case opened the public hearing.

B. Danielson presented the Staff report, entered Exhibit Nos. 18-45 into the record and presented the Staff report.

Gary Allen, on behalf of Appellant, stated his name and address for the record. He presented a PowerPoint showing the location of the proposed cemetery. He stated that tonight's decision would set the bar for future building and landscaping requirements for similar projects. He addressed landscaping, local control of burial activities and the need for an underground barrier to protect from burrowing animals. He argued that if Applicant did not have a sufficient supply of water to maintain landscaping, the application should be denied for failure to meet the adequate public services requirement. He showed the landscaping on and around other cemeteries in the County. He stated the waiver of the landscaping requirement granted by the Planning and Zoning Commission (P&Z) is inconsistent with the treatment of all modern cemeteries in the valley. He stated that he believed the County should retain some local control of burial practices in order to assure Applicant complies with state

burial requirements. He continued that he believed an underground barrier should be required around the perimeter of the site to reduce the risk of burrowing animals getting under the fence.

D. Case inquired what G. Allen had in mind regarding underground perimeter fencing. G. Allen explained he wasn't an engineer, but he believed there should be some type of material underground that would make it difficult for animals to burrow under.

Applicant, Midhat Smajic, stated his name and address for the record. He said he is the leader of the Bosniac community that filed the initial application for the conditional use of the cemetery property. He explained that he had available sufficient water for the cemetery and intended on xeriscaping around the perimeter of the property. He explained that Applicant will comply with the State and County cemetery requirements.

Sabrina Durtschi, representing Applicant, stated her name and business address for the record and presented testimony. She confirmed that Applicant intends to meet all conditions of the approval set forth in the Staff report, including all state and federal requirements. She reiterated that a waiver of landscaping was requested on a portion of the land that has no surface irrigation water rights. The Applicant will, however, be xeriscaping the site, which is harmonious to the surrounding area. She clarified that this application was specific to land use, not the use of the building on the property as that will be addressed through a separate application at a later date.

R. Yzaguirre asked S. Durtschi about the fencing. S. Durtschi stated Applicant intended on using six foot chain link around the cemetery and believes that will keep the rodents out of the area.

J. Tibbs inquired if S. Durtschi was aware of any other cemetery using chain link fencing. S. Durtschi stated she wasn't familiar with the other cemeteries in the county. She said that for the area and the rural nature, Applicant believes that chain link is the most sensible type of fencing to help prevent animals from going into the cemetery and burrowing.

Eric Dorsey stated his name and address for the record and presented testimony in favor of the appeal. He argued the location of the cemetery would lower the property value of the surrounding properties. He believes P&Z disregarded the city of Kuna's conditions of approval. He reiterated the concerns raised by G. Allen.

David Klinchuk stated his name and address for the record and presented testimony opposing the cemetery. He said he believes P&Z disregarded state and county laws when making their decision and echoed previous testimony regarding landscaping and burrowing animals.

Don Boyer stated his name and address for the record and presented testimony opposing the cemetery. He reiterated D. Klinchuck's testimony. He requested that should a permit be issued, a condition be added that individuals of any faith could be buried in the cemetery.

Mark Corder stated his name and address for the record. He inquired how the Applicant intended to preserve their wood lined graves, as wood fences do not last for extended periods of time.

R. Yzaguirre asked M. Smajic to re-approach the podium and asked if he believed burrowing animals were an issue and how he intended to deal with it. M. Smajic explained that he believes the chain link fence will prevent access to the property by animals. He also explained that the wild animals that exist now are a result of the property not being used. He said once the property starts being actively used and is fenced in, it will deter many of the burrowing animals from the area.

Anthony Miller stated his name and address for the record. He presented testimony raising concerns regarding the cemetery's appearance and maintenance. He reiterated concerns raised regarding wild animals burrowing the ground.

Carrie Anne Kowalchyc stated her name and address for the record and presented testimony reiterating prior comments regarding landscaping. She also expressed her concerns regarding nitrates from decomposing bodies contaminating the ground and water.

Hikmet Muhic stated his name and address for the record and presented testimony in support of the cemetery. He discussed the challenges, as Muslims, of purchasing property for cemetery use. He explained that Jews and Christians would be allowed to be buried in the cemetery if they are family of a Muslim member.

Joan Mattox stated her name and address for the record and said she represented the Cloverdale-Columbia Neighborhood Association. She presented testimony supporting the cemetery.

G. Allen re-approached the podium to rebut testimony presented. He stated that ground water rights are available to Applicant for landscaping purposes. He argued that badgers are abundant in the area and believes they will be a problem. He restated his initial testimony.

B. Danielson entered G. Allen's power point presentation, water permits, and photographs into the record as Exhibit Nos. 46 through 47.

D. Case closed the public hearing.

R. Yzaguirre explained that based on the Staff report and testimony provided that the application meets Ada County code. He said he would like to see a condition included to require a fence and landscaping plan. J. Tibbs reiterated R. Yzaguirre's comments and expressed concern regarding the number of late exhibits received during the hearing. D. Case suggested tabling this matter to allow the Board time to review the exhibits submitted and consider the testimony presented.

ACTION: R. YZAGUIRRE MOVED TO TABLE APPLICATION NO. 201400337-A – LAYNE THORNTON TO AUGUST 13, 2014; AND DIRECT STAFF TO WORK WITH APPLICANT TO CONSIDER CONDITIONS TO DEAL WITH THE FENCE AND LANDSCAPING PLAN AND TO CLARIFY WATER RIGHTS. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE, AND D. CASE, AYE.

2. **201400467-S-PR – PASTURE SERENE ESTATES SUB:** A preliminary plat application for a two (2) lot residential subdivision along with a private road application. The property is located at 3520 S. Black Cat Road; Section 27, T. 3N R. 1W.

D. Case opened the public hearing.

B. Moore presented the Staff report.

S. Durtschi, on behalf of Applicant, stated her name and business address for the record and presented testimony explaining there was no neighborhood opposition to the application.

D. Case closed the public hearing.

ACTION: J. TIBBS MOVED TO APPROVE APPLICATION NO. 201400467-S-PR – PASTURE SERENE ESTATES SUBDIVISION, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT AND THE TESTIMONY PRESENTED. R. YZAGUIRRE SECONDED. J. TIBBS, AYE, R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

3. **201400307-S-ZC-DA – HOMEPLACE HOLLOW SUB:** A request for a 14-lot subdivision, a zone change from R1 to R8 and a development agreement on 3.809 acres. There will be 14 residential lots for a density of 3.68 DU/acre. The minimum lot size is 5,000 sq. ft. The property is located off W. Steve Street, south of N. Rooney Ave. and N. Abe Ave; Section 14, T. 4N R. 1E.

D. Case opened the public hearing.

M. Perfect presented the Staff report.

Applicant, Pat Teeley, stated his name and address for the record. He said he is in agreement with the Staff report and would stand for questions.

D. Case closed the public hearing.

ACTION: R. YZAGUIRRE MOVED TO APPROVE APPLICATION NO. 201400307-S-ZC-DA – HOMEPLACE HOLLOW SUBDIVISION, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE STAFF REPORT. J. TIBBS SECONDED. R. YZAGUIRRE, AYE, J. TIBBS, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

4. **201400344-S-ZC-DA-PBA – CHARTER POINTE MEADOWS SUB:** Preliminary plat for 92 residential lots and 5 common lots. Rezone the property from RSW to R8 with a Development Agreement. A property boundary adjustment to adjust the property from Charter Pointe Subdivision #10 to the proposed Charter Pointe Meadows. The property is located at the termination of S. Maple Grove Road east of Charter Pointe Subdivision.; Section 2 & 11, T. 2N R. 1E.

D. Case opened the public record.

D. Sanders entered Exhibit No 29 into the record and presented the Staff report. She advised the Board that Applicant submitted a revised preliminary plat to address concerns raised by the neighbors and reviewed the proposed changes. She advised the Board that a development agreement has not been finalized, so if the Board approves the application she requests the signing of the agreement be tabled to the July 22, 2014, Development Services Meeting.

D. Case asked D. Sanders how many parking spaces have been provided for. D. Sanders stated that she was unsure of the number of parking spaces included but that it was the same amount as previously proposed. He then asked D. Sanders to explain the traffic flow. She stated traffic would be routed by way of Lake Hazel Road.

R. Yzaguirre inquired how the density on this application compared with the previous one. D. Sanders explained that the previous application was 5.17 dwelling units per acre in 2007 and it's currently proposed for 2.7 dwelling units per acre.

Applicant, Kevin McCarthy, stated his name and address for the record. He stated he didn't have anything to add to the Staff report but would stand for questions.

Lou & Vicki Mergoitio stated their names and address for the record. L. Mergoitio expressed his concerns of the impact this application would have on his long standing dairy farm and provided the history of the property and farm.

R. Yzaguirre asked L. Mergoitio to summarize his main issues. L. Mergoitio responded that his biggest concern is connecting Sea Breeze to Maple Grove as that would bring the traffic from the subdivision directly through the middle of their operation. Secondly, he is concerned that the fence remain in place to allow them to trail the cattle between their two facilities during the year.

J. Tibbs affirmed that Sea Breeze would not connect with Maple Grove. D. Sanders stated that, at this point, the developer is not proposing to connect to Maple Grove Road. She advised that if the Mergoitios develop any of their property, they would be responsible for constructing Maple Grove to connect with Sea Breeze. She said the developer is working on an agreement with them to mitigate that issue.

V. Morigoito explained that, pursuant to the proposed development agreement, that at the time the property is sold, that portion of Sea Breeze would be constructed to connect to Maple Grove.

Tim Tyree stated his name and address for the record. He advised the Board he was an attorney present on behalf of the Morigoitos. He discussed the proposed development agreement. He said the Morigoitos want the project to proceed but restated their concerns regarding traffic should Sea Breeze be constructed. He said advised that the Ada County Highway District (ACHD) has not provided final comments on the proposed development agreement for the Morigoitos to review and respond to. He suggested if the project is approved it should be conditioned on the finalization of the development agreement.

D. Case asked D. Sanders if ACHD has set a date for approval of the development agreement. She responded that she was unaware of a set date.

Randy Clarno, Manager of Charter Point Properties, stated his name and business address for the record. He explained that the parties have been cooperative of the agreement and discussed the phasing of the project. He said the last phase is when Sea Breeze would be constructed and ACHD is looking for assurances that will occur if the Morigoitos develop the last portion of the property. He said the two phases he is hoping to develop this year is separate from the pending development agreement with ACHD and the Morigoitos.

D. Case closed the public record.

J. Tibbs asked D. Sanders to clarify Staff's recommendation. D. Sanders stated she recommended the Development Agreement be tabled to July 22, 2014.

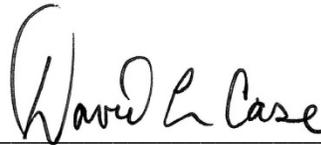
ACTION: J. TIBBS MOVE TO TABLE APPLICATION NO. 201400344-S-ZC-DA-PBA – CHARTER POINTE MEADOWS SUBDIVISION TO JULY 22, 2014, TO ALLOW TIME TO WORK ON THE DEVELOPMENT AGREEMENT. R. YZAGUIRRE SECONDED.

DISCUSSION: D. CASE NOTED A REPRESENTATIVE FROM ACHD WAS PRESENT AND SUGGESTED THE REPRESENTATIVE URGE MR. PRICE TO CONTACT D. SANDERS IN ORDER TO MOVE THE AGREEMENT FORWARD.

ACTION: J. TIBBS, AYE, R. YZAGUIRRE, AYE, AND D. CASE, AYE. THE MOTION CARRIED UNANIMOUSLY.

V. IN THE MATTER OF ADJOURNMENT:

There being no further business to come before the Board on this date, the meeting was adjourned at 7:58 p.m.



David L. Case, Chairman

ATTEST:



Christopher D. Rich, Ada County Clerk