

Brookville Planning Commission
Virtual Regular Meeting
August 20, 2020

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on August 20, 2020. The meeting was held virtually using the Zoom web application. The Pledge of Allegiance was recited. Mayor Letner; Members Claggett, Cordes, Schreier and Sievers; City Manager Keaton, Zoning Officer Snedeker, Law Director Stephan and Clerk Duncan were present. Member Boose was absent.

Roll call by Clerk Duncan.

Motion by Claggett, second by Sievers to approve the Agenda as presented. All yeas, motion carried.

Motion by Claggett, second by Schreier to approve the meeting minutes of the July 16, 2020 Regular Planning Commission Meeting. Claggett yea, Sievers yea, Cordes yea, Letner yea, Schreier yea, Henderson abstain. Motion carried with five yeas and one abstention.

Zoning Officer Snedeker reported Mike Oxner, of Professional Associates, Tim Taylor, owner of available lots in the Meadows of Brookville and John Moses, Division Manager with Fisher Homes are present this evening for a Preliminary Conference with Planning Commission regarding a Paired Patio Home Concept for the remaining lots along Westbrook Road. The concept is to take the remaining lots and re-plat them into zero lot lines. The Meadows of Brookville already has zero lot line parcels in Section Four on Brooke Woode Drive, addresses 85 through 159, on the west side of the street. This is a conference meeting, so a vote is not needed tonight for the concept of Paired Patio Homes. Zoning Officer Snedeker advised there are three different scenarios to be reviewed in this meeting: re-zoning from R-1C to R-2, a Subdivision Re-plat and a Variance for rear yard setbacks.

Mike Oxner, of Professional Associates, presented a concept plan regarding the remaining vacant land in Meadows of Brookville on Westbrook Road. Mr. Oxner advised the original plan for single family homes was approved by Planning Commission in 1993. The concept plan modifies the lots along Westbrook Road to attached single family homes with zero lines, similar to the homes on Brooke Woode Drive, but with a different architectural style. Mr. Oxner stated the first series of lots on Brooke Parke Drive would also be attached single-family homes and the balance of the property would be 22 single-family homes which would follow the previously approved Preliminary Plan. Mr. Oxner advised because of the dimensions and size of remaining lots, a Variance is needed on the rear yard setback for the attached single-family homes on Westbrook Road, and for the attached single-family homes on the north side of Brooke Parke Drive that will be a 25' setback. They also need a variance for the attached single-family homes on Brooke Parke Drive because they are a little bit short for the R-2 category. All utilities, including sanitary, storm sewer, water, gas and electric are in place. The first plat section to be built would be the lots on Westbrook Road, with the remaining two sections to follow. Mr. Oxner stated these homes are very nice architecturally and will fit in well with the community.

John Moses, with Fisher Homes, stated his company is one of the largest builders in the country and they have targeted Brookville. They are working with Tim Taylor to build the Hudson Home, which is a 1,657 square foot home with an attached two-car garage. Mr. Moses advised these homes would be a good fit for the lots along Westbrook Road and he is anxious to get Planning Commission's feedback and to answer any questions they might have.

Member Schreier commented his initial response is positive. The homes are nicely designed with good aesthetics and size. Member Schreier observed the floor plans show the square footage is well utilized. Member Schreier asked if the homes are 1,657 square foot per side?

Mr. Moses that is correct, the finished first floor is 676 square feet and the second floor is 981 square feet.

Member Schreier stated the homes are spacious and the lots are well utilized for this concept.

Mr. Moses stated this also includes nine-foot ceilings on the first floor so there is a very open feel. The feedback has been fantastic from their customers.

Mayor Letner asked if there is a target age group for these homes?

Mr. Moses replied these homes were just introduced in Florence, Kentucky and are attracting first time and second time homebuyers moving from small starter homes or condos.

Mayor Letner stated Westbrook Road is a very busy road and asked Mr. Moses if he has safety concerns about people backing out of their drive?

Mr. Moses replied that is a concern they gave serious consideration to as well. The good news is there is some road widening there that allows for an area for parking. Mr. Moses stated anything that would be built there would have the same challenge.

Member Schreier commented the development is in the City but the road is a County road so we would not have any jurisdiction to change the speed limit.

Chairperson Henderson said he would advocate Planning Commission makes every attempt to change the speed limit.

Law Director Stephan stated when the previous subdivision was approved to permit driveways out onto Westbrook Road, this was also reviewed and approved by Montgomery County Planning Commission. Law Director Stephan stated the re-plat will have to go back to them for review. Law Director Stephan agreed there is a concern there with the number of entrances and City staff did speak with Mr. Oxner and the developer about this. They did come up with the concept of having the driveways merge into one as you come out onto Westbrook Road so there would still be the same number of entrances that were previously approve by Montgomery County Planning Commission.

Mayor Letner asked if there will be a Homeowner's Association?

Mr. Moses replied there is currently not a Homeowner's Association (HOA) in the Meadows of Brookville but he and the owner, Tim Taylor have agreed there needs to be one. He would like to make some improvements to the entrance monuments and an HOA would allow some other areas of upkeep to be addressed.

Member Schreier inquired in general, how long it would take to build out all 48 units?

Mr. Moses replied based on his research, the homes will cost around \$120 per square foot to build out and will sell for around \$190,000. It should take about three years to build them all out.

Member Cordes stated he is impressed with the floor plan. They are a good size and the upstairs allows a lot of opportunity to customize the home to the individual.

Member Sievers stated her only issue was the driveways coming out on Westbrook Road.

Chairperson Henderson advised Montgomery County will likely look at that closely and may mandate a speed limit change there when they go through the final approval of the re-plat. As a City, Planning Commission should make every attempt to get that reviewed closely as it is a heavily traveled road. Chairperson Henderson stated he loves the idea of adding more homes, they are very attractive and reach the right demographic for our community. His only concern is getting the general neighborhood's acceptance and getting them on board with an HOA. Chairperson Henderson stated we should do everything we can to help the existing homeowners to feel comfortable with this new extension of their neighborhood.

Mr. Moses agreed, stating it is important to Fisher Homes to be good members of the community. They will hold meetings to communicate with existing homeowners and do whatever is necessary to gain their support.

Member Claggett observed he is glad to see there is a five-foot sidewalk going around the proposed new development and asked if there are sidewalks on the Heckathorn Road side of that plat? Member Claggett stated this will promote our walkable community plan.

Manager Keaton replied she believes there are sidewalks on the Heckathorn Road side.

Member Schreier asked what the differences are between R-1C and R-2? Member Schreier also inquired what the current setbacks would be and what is the Variance on this?

Zoning Officer Snedeker advised a two-family dwelling falls under a Special Use in R-2. The minimum frontage is 70 foot, the front yard is 25', the rear yard is 30' and the side yard is 10'.

Member Claggett observed it is only the rear yard that would not meet the zoning.

Mr. Oxner indicated the rear yard in this Preliminary Plan is 26.5'.

Member Schreier observed this would still meet 90% of the current setback.

Chairperson Henderson asked if Planning Commission Members had any more feedback and thanked the presenters for coming in this evening.

Mr. Moses replied they appreciate the feedback and support they received this evening. Fisher Homes believes in the concept and pledges to do a good job for the City of Brookville.

Chairperson Henderson inquired what the timeline is for a formal submission of plans?

Mike Oxner advised they would be bringing it to the next Planning Commission Meeting in September.

Mayor Letner asked Law Director Stephan if a Public Hearing will be required?

Law Director Stephan replied the re-zoning would require a Public Hearing. There would be a first reading of a re-zoning Ordinance before City Council, then a joint Public Hearing before City Council and Planning Commission. All the property owners in the Meadows of Brookville would be notified in writing of the Public Hearing. After the Public Hearing, Planning Commission would have a final recommendation to City Council on the re-zoning, then it would go back to City Council for two final readings of the re-zoning Ordinance, which would go into effect 30 days later. Law Director Stephan advised City Staff has talked with the applicant about also having the Subdivision Plat with this Variance approved at the same time.

Mr. Oxner thanked Planning Commission for their time and consideration and advised if that further questions be directed to Zoning Officer Snedeker who will pass them on to be addressed at a Public Hearing.

Zoning Officer Snedeker presented a list of permits and violation issued since the last Planning Commission meeting. Zoning Officer Snedeker advised seven new residential home permits have been issued year-to-date.

Zoning Officer Snedeker reported City Council granted a Special Use permit to Justin Landis in July to sell fresh sweet corn from the Brookside Plaza lot. If he had waited for the next Planning Commission meeting to get approval to sell the corn, he would have missed the season. Zoning Officer Snedeker asked Planning Commission to approve the Special Use permit. Zoning Officer Snedeker also advised the current Special Use Permit procedure has discouraged many from selling fresh seasonal goods in the plaza and asked Planning Commission to consider changing the permit policy.

Law Director Stephan indicated our Mobile Food/Produce Vendor Ordinance includes the ability for Planning Commission to designate certain areas in advance for these sales, which would allow the permit process to be handled administratively by the Zoning Officer, who could respond more quickly to this type of permit request. Law Director Stephan advised Brookside Plaza has become an area where we have produce or fruit vendors. In this instance, it was four weeks until the next Planning Commission meeting when Mr. Landis applied. Based on the fact that he met all the requirements in the Ordinance and that there had been mobile food/produce vendors at that location

in the past, City Staff granted a temporary permit until Planning Commission's next meeting. Law Director Stephan suggested to Planning Commission with respect to the produce vendors, it would be helpful if we had an area like Brookside Plaza designated, allowing us to respond administratively from a Staff perspective on that permit.

Member Schreier inquired if we had any areas designated officially?

Law Director Stephan replied currently there are no designated areas for produce vendors. In the past, they have sold from either Brookside Plaza or from the Municipal Parking lot near the Service Garage. If we designate a specific area, the applicant must still meet the permit requirements. The only change would be that Zoning Officer Snedeker could approve it without it coming before Planning Commission.

Chairperson Henderson stated he personally likes the idea of making this change for produce sales. The two areas Law Director Stephan identified are probably the prime locations to sell produce, which is something a vendor must move on quickly once it is picked.

Zoning Officer Snedeker stated he has not received any complaints regarding vendors selling produce from those locations. The only complaints he has received are from the vendors themselves regarding the permits and the fees.

Chairperson Henderson stated the permit should specify the duration of the permit when it is issued.

Member Claggett inquired whether Planning Commission should consider lowering the fee for produce vendors as \$75.00 seems steep for someone selling sweet corn.

Law Director Stephan stated at one time Planning Commission suggested reducing the fee to \$35.00. It is not that much work for Staff and anything more is cost prohibitive just to sell produce.

Zoning Officer Snedeker stated he feels the fee should still be \$75.00 for the mobile food vendors.

Member Sievers agreed, stating we should have two different fee scales.

Member Schreier asked if the permit is good for the whole season once it is issued?

Zoning Officer Snedeker stated that is correct.

Member Claggett suggested changing the Special Use Permit fee to \$25.00 for produce vendors.

The consensus of Planning Commission is to change the Special Use permit fee to \$25.00 for produce vendors.

Motion by Cordes, second by Claggett to revise the Special Use Permit Fee from \$75.00 to \$25.00 for produce vendors only. All yeas, motion carried.

Motion by Schreier, second by Sievers to designate Brookside Plaza and the Municipal parking lot off Arlington Road as designated areas for produce vendors. All yeas, motion carried.

Zoning Officer Snedeker presented an aerial view of the nearly completed DMAX building, the Bruns development construction and the new message board on Market Street.

Zoning Officer Snedeker stated he continues to get calls regarding lots for new home construction, but we are running out of lots. He has not seen our inventory this low since he took this position.

Zoning Officer Snedeker reported he recently spoke with David Oaks regarding the acreage next to the Fire Station and Sterling Homes, Section 8. Mr. Oaks advised COVID-19 has really slowed down their meetings but they are still interested and still have an offer on the land.

Law Director Stephan stated he provided Planning Commission with a packet of material last month regarding the permitting of chickens within the City of Brookville and asked if Planning Commission had any questions or further discussion about moving forward with drafting a Zoning Ordinance that would permit chickens?

Member Cordes stated he talked to a number of people within the City of Brookville who would oppose the permitting of chickens in the City.

Chairperson Henderson stated he has talked to many community members and not found many who support it. The general consensus of the people he has spoken with, which is not the whole community, are opposed to it.

Member Claggett advised he asked the residents living near him on Sycamore Street and they did not like idea of chickens in the City.

Member Schreier stated he asked a small sampling of people and no one was in favor of it. Member Schreier stated based on the examples given in the packet it seems only a minute amount of communities allow chickens and that is a small precedent to consider pushing something like this forward.

Member Sievers commented she has not talked to anyone who is in favor of permitting chickens within the City. Member Sievers stated we are surrounded by townships that are more than accommodating if you would like to raise livestock. Chickens are livestock, they are not pets, especially if you are hoping to get eggs from them. They are producing something, which makes them livestock and no one that she has spoken to wants to see that within the City limits.

Member Claggett agreed.

Mayor Letner indicated Member Sievers had a good point. Mayor Letner stated Planning Commission discussed before wildlife coming in and destroying chickens, and it is a given that this will happen. Mayor Letner stated the homeowner should not have to deal with this, we do not employ an animal control officer who can deal with it and our Police are not going to deal with it.

Chairperson Henderson commented he is getting the general feel that Planning Commission is in opposition to permitting chickens in the City.

Clerk Duncan advised that Trevor Hopkins is present virtually and has indicated he would like to speak regarding permitting chickens.

Chairperson Henderson advised Planning Commission will hear Mr. Hopkins at this time.

Mr. Hopkins stated a year and a half ago, he came before Council and gave this speech, and he got a lot of up and down nods, not a single head moved left and right that this was not a good idea. Disturbingly, somebody mentioned they did not know of any other cities that allow this. Mr. Hopkins reported the following list of cities allow chickens: Cincinnati, Columbus, Los Angeles, New York and San Francisco. Mr. Hopkins challenged Planning Commission to find him a City that does not allow chickens. In the local area, the City of Dayton, Kettering, Yellow Springs, Riverside, Miamisburg, Tipp City, Troy, Moraine, Eaton and Centerville allow residents to have chickens. Mr. Hopkins stated what is it about Brookville that is so not progressive that we are saying absolutely no to chickens. Mr. Hopkins stated some of you unelected bureaucrats saying no could at least pass it on to the Council and let the elected representatives of the City vote on the matter. Mr. Hopkins stated they are our elected officials, not you. Mr. Hopkins stated he knows some of you are elected, still, pass it on and let all of the elected officials vote on this matter. Mr. Hopkins stated he would like to put in a motion to ban dogs in the City of Brookville. Dogs make waste that stinks, dogs bark, are noisy and make a nuisance. They also bite people and that is dangerous. Mr. Hopkins stated there is nothing that a chicken does that a dog does not already do and somehow we think it is ok that dogs are allowed in this town but not chickens. Mr. Hopkins asked what do you have against a chicken- that I might feed myself? Mr. Hopkins stated he honestly does not care if some people are in opposition to it, what is your opposition? Are you for people living their lives unrestricted with guidance? Or are you for restricting people's freedom to live their lives? Mr. Hopkins stated it is not a matter of whether or not the people you know in your life want chickens. They don't have to have them. They don't have to have a dog or a cat. Mr. Hopkins stated they don't have to have chickens, but why can't he? Mr. Hopkins commented he has already given you a list of cities and will bring you more because the majority of the major cities in this country allow chickens. Brookville is the only one that says proud and progressive, what is so proud and progressive about denying the freedom to its residents? Mr. Hopkins stated he wants everyone here to state what their opposition is given what he has told them. Chickens are less noisy than a person having a conversation on the sidewalk. Ten chickens make less refuse in a single day than one dog. Mr. Hopkins asked why do we allow dogs? Mr. Hopkins stated he hereby calls for the banning of dogs in the City of Brookville.

Member Schreier stated a dog is a pet.

Chairperson Henderson thanked Mr. Hopkins for sharing his opinion, stating he does value and respect it. Chairperson Henderson stated Mr. Hopkins has identified a lot of cities that allow chickens. Many of those are major cities that do not have the luxury of having farms right down the road.

Mr. Hopkins stated respectfully he does not live on a farm; he lives in this town. He does not have the luxury of moving out of this town. Mr. Hopkins stated maybe that is your life but that is not my life. Mr. Hopkins stated I am in my house and this is where I am living, and I am trying to make the best of it.

Chairperson Henderson advised Mr. Hopkins he could help Planning Commission by bringing his advocates that support him on this issue. Chairperson Henderson stated the more voice we have, the easier the decision will be. Chairperson Henderson told Mr. Hopkins he hears him and is listening, but he has yet to hear from other people with the same opinion.

Mr. Hopkins stated if this goes to Council and there is a Public Hearing, those people will come forward and have their say. Mr. Hopkins stated half of your committee is unelected bureaucrats that can squash something with no repercussion. Mr. Hopkins suggested Planning Commission pass this on to Council so the elected officials can put their name on this.

Mayor Letner asked Mr. Hopkins why he is so adamant about having chickens?

Mr. Hopkins stated he has never lived in a place that did not allow chickens. When he made the decision to move to Ohio, he chose the City of Brookville. He thought this small town would be perfect because he has lived a sort of life that has never really fit the place where he lived so he had to make the best of it. Mr. Hopkins stated he grew up in San Antonio, Texas. Mr. Hopkins stated you might have heard of it- it is a city of two million people where you can have chickens. Mr. Hopkins stated he has lived in metropolitan areas his entire life and in every one of them he was allowed to have chickens. Mr. Hopkins said when he moved to Brookville, he said this small-town way of life really fits the way that he lives. It is only here, in this town of 5,000 that he has met resistance to the things that he wants to do. Mr. Hopkins stated he wants someone to put their name on it and say why they are saying no. Mr. Hopkins asked what is it about chickens that you say no to, because whatever your argument is it applies to a dog.

Mayor Letner replied a dog is domesticated but a chicken is not.

Mr. Hopkins replied if Mayor Letner will have some private time with him, he will bring every example that one could ever dream of regarding domesticated chickens. Mr. Hopkins stated that is beside the point, because some people keep their dogs outside just like a chicken.

Mayor Letner stated he would be glad to meet with Mr. Hopkins person to person some time. However, the tone needs to be a little bit lighter.

Mr. Hopkins stated he knows he is animated about this. Mr. Hopkins stated he told Chairperson Henderson a long time ago that he had spoken with Zoning Officer Snedeker about this and was told to go talk to Council. Mr. Hopkins stated he went to Council and made an impassioned speech and what happened? The Mayor responded with thanks for coming in and that was the end of it. Mr. Hopkins stated he then went to Chairperson Henderson and asked what he needed to do. Chairperson Henderson said go talk to Zoning Officer Snedeker. Mr. Hopkins stated Zoning Officer Snedeker was the one who gave him the bad advice in the first place. Mr. Hopkins stated he asked Zoning Officer Snedeker again how to get this before the Planning Commission and he

said he was not sure. Mr. Hopkins stated that was complete BS as he knew exactly how. Mr. Hopkins said he finally got before Planning Commission tonight and you are all unelected and saying no. Mr. Hopkins stated he does not want unelected people saying no and making decisions. Interpretations of ordinances, by all means, but whether or not they should be changed should be decided by elected officials. Mr. Hopkins stated that is his contention and that is why he is so passionate right now because every one of them said absolutely not. Mr. Hopkins stated this should go before the City Council where all the elected officials can weigh in on this matter.

Chairperson Henderson advised he hears Mr. Hopkins and is listening but he is still personally opposed to chickens in the City. Chairperson Henderson stated he needs more proof. Chairperson Henderson said he is here to protect the residents of this community and he does his best to do so.

Mr. Hopkins asked what he wants proof on?

Chairperson Henderson replied proof of who else in the community is advocating for chickens. Right now, the only person he is aware of is Mr. Hopkins.

Mr. Hopkins asked if it takes an advocate? Mr. Hopkins asked who else in the community is advocating for sweet corn? Planning Commission passed that guys issue and let him do his thing.

Mayor Letner stated the discussion is getting off topic, addressing Mr. Hopkins as Trevor.

Mr. Hopkins stated his name is Mr. Hopkins, just like the Mayor's name is Mr. Letner.

Mayor Letner apologized and addressed him as Mr. Hopkins, stating we hear you, like Ryan said, and he would be willing to meet with him sometime but the approach he is using now and what he is accusing people of and saying is not right. Mayor Letner stated he understands Mr. Hopkins passion, but thinks he is using the wrong approach.

Mr. Hopkins stated so you are suggesting the tone of my voice is the reason Planning Commission is voting no?

Mayor Letner stated he did not say that at all, it is his accusations and his tone that is not setting well for his plight.

Mr. Hopkins stated the issue is not whether his tone is appropriate. That is not what you are on this committee to do. Mr. Hopkins stated you are on this committee to decide whether or not the citizens should have a right to some matter or not and it should not matter what his tone of voice is.

Mayor Letner replied each one of the people on this committee has explained the reason for their opposition, case closed.

Chairperson Henderson asked if Law Director needs a motion regarding this or is this just a form of discussion?

Law Director Stephan replied this was just for discussion tonight. Law Director Stephan reviewed the Charter process to change the Zoning Code, stating typically we start with Planning Commission for an initial recommendation, then there is a first reading by City Council, then there is a Public Hearing, then it comes back to Planning Commission for approval. If Planning Commission does not approve it, then unless City Council overrides that by a two-thirds majority the Planning Commission decision is final. If Planning Commission does approve it, it goes back to City Council for two additional readings. Law Director Stephan stated right now he is not asking for a vote; Planning Commission has the materials and Mr. Hopkins has been heard. If at some point in the future, Planning Commission or City Council want to move forward, Staff could draft an Ordinance based on the materials provided and move forward with the process.

Chairperson Henderson thanked Law Director Stephan and asked if Planning Commission has any further comments on this issue?

Member Claggett commented his wife was looking on the internet to find other cities that allow chickens and found Columbus, Indiana, with a population of 47,000 just amended their ordinances to allow a maximum of four chickens to be raised by someone in town. Member Claggett stated his concern with farm animals is once the door is opened, then it is goats and sheep. Member Claggett commented he is not sure why Mr. Hopkins is so angry about this.

Member Cordes stated he moved into the City of Brookville six years ago from a small farm in Preble County, where he lived next to neighbors who had swine, chickens and goats. He moved into the City and he does not want farm animals next to him.

There was no Old Business.

Clerk Duncan stated Mr. Hopkins also had a question regarding the Paired Patio Home Concept.

Member Claggett asked about the opening of DMAX?

Zoning Officer Snedeker replied they hope to start manufacturing at the end of November.

Member Henderson requested a motion to allow citizen comments.

Motion by Schreier, second by Claggett to allow citizen comments. Cordes nay, Sievers yea, Claggett yea, Schreier yea, Letner yea, Henderson yea. Motion carried with five yeas and one nay.

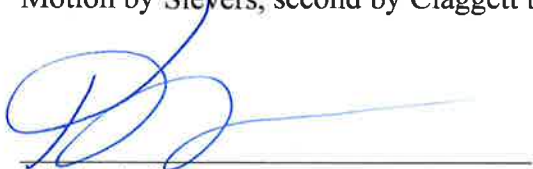
Mr. Hopkins stated his ex-wife lives in the Meadows of Brookville, and there is a road as you first go in that is 100 feet long. The proposed homes would have to be facing inward on this road, not coming out onto Westbrook Road.

Chairperson Henderson replied the proposed homes would be both on Brooke Parke Drive and on and on Westbrook Road.

Mr. Hopkins observed the parking lot near the bike path is an opportune place for produce vendors.

Member Sievers replied that is one of the areas Planning Commission designated tonight as an area for produce vendors.

Motion by Sievers, second by Claggett to adjourn. All yeas, motion carried.



Kimberly Duncan, Clerk



Ryan Henderson, Chairperson

