

Brookville Planning Commission
Virtual Regular Meeting
April 15, 2021

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on April 15, 2021. The meeting was held virtually using Webex. The Pledge of Allegiance was recited. Mayor Letner; Members, Claggett, Cordes, Requarth, Schreier and Sievers; City Manager Keaton, Clerk Duncan, Zoning Officer Snedeker and Law Director Stephan were present.

Chairperson Henderson reminded everyone the meeting is being recorded.

Roll call by Clerk Duncan.

Motion by Cordes, second by Requarth to approve the Agenda as presented. All yeas, motion carried.

Motion by Schreier, second by Requarth to approve the Regular Meeting Minutes of the March 18, 2021 Planning Commission Meeting. All yeas, motion carried.

Chairperson Henderson announced Planning Commission will be reviewing a Preliminary Plan and rezoning application submitted by CAP 5 Development, LLC for Lot 1743.

Ryan Reed, of DDC Management, stated he is present for Planning Commission to review the Preliminary Plan and rezoning application for the 18.6-acre site on the corner of Albert and Upper Lewisburg Salem Roads. The intent is to go to a Planned Residential zoning and construct 69 single-family homes. Mr. Reed indicated he presented the plan at the last Planning Commission meeting and is back to answer any questions.

Member Cordes inquired what the width of the individual lots are?

Mr. Reed replied the lot width is 51 feet.

Member Claggett commented the plan shows 11.9% open space while Planning Commission wants 25% open space. Member Claggett stated he would like to see at least 20% open space.

Mr. Reed replied that is understandable. By their calculations, this would cause them to lose 12-15 lots to get close to the 25% green space requirement. Unfortunately, this would not work for them economically and they are proposing the 69 lots.

Member Cordes commented he does not see where they get 11.9% open space.

Mr. Reed stated the pond and 30% buffer space around the property is considered open space.

Member Cordes commented other than the pond there is no play area for kids, or any space to walk a dog.

Mr. Reed replied there will be a small amenity near the pond, not a playground, but possibly a park bench or gazebo. As far as walkability, they worked with City staff to try to devise a route for sidewalks. All of the lots within the community will have sidewalk in front of them.

Member Cordes asked what the price point is for these homes?

Austin Schile, Director of Market Research for Arbor Homes, replied the price points are ultimately market driven, but in 2020, their average price point in the Indianapolis market was \$230,000. He would expect the net average in the Brookville market to be very close to that.

Member Claggett asked if Planning Commission has input on the minimum square footage home that can go on these lots?

Chairperson Henderson replied they would have to comply with minimum square footage in our zoning.

Member Claggett inquired about a continuous wall or barrier so the back yards of the proposed homes cannot be seen from Albert and Upper Lewisburg Salem Roads? This would prevent people from having to look at swimming pools and trampolines in the back yards.

Chairperson Henderson asked Mr. Reed if there is a landscaping plan to shield the back of the homes?

Mr. Reed replied right now screening for the backs of the homes is not included in the plan. In the covenants and restrictions draft provided, they do not allow above-ground pools or trampolines. A wooden play structure or fencing would have to go through the HOA board. They try to keep a consistent community and keep it succinct and appealing across the board.

Member Requarth stated he did some research on Arbor Homes from Indianapolis and from June 29, 2018 through March 9, 2021 there were 63 complaints filed with the Better Business Bureau, which is 81 pages long. Most of them are quality complaints regarding the houses themselves. Member Requarth wondered if this builder builds to the standard we want here in Brookville.

Mr. Reed commented they work with large national and regional builders throughout the country. If you did the same research on these top builders in the country, you would find the same types of complaints. This is pretty standard for the industry. DDC Management feels Arbor Homes is a reputable company that put out a really good product.

Member Requarth commented if people are spending a quarter of a million dollars for a home they should not have problems with it. If they do it should not be difficult to get it resolved.

Mr. Schile replied Arbor Homes is the largest builder in the central Indiana area. They built 1,300 homes in Indiana last year and 15,000 since the company was founded in 1994. They have been a member of the Better Business Bureau for a good portion of the time and consistently receive A+ ratings. They also participate in AVID ratings, which is an industry standard, and consistently receive above average ranks. They have a dedicated quality assurance and warranty team and take

great care to follow up with customers. During the time period Member Requarth referred to, Arbor Homes built over 3,000 homes, so those complaints represent a low percentage. Mr. Schile stated Arbor Homes is committed to building a quality product that meets or exceeds industry standards.

Member Schreier commented it looks like a potential four-foot walkway on Albert Road has been added to the plan drawing. He is still struggling with the backs of the houses facing Albert Road and potentially Upper Lewisburg Salem Road. Member Schreier asked as they developed the plan and looked at payback per acre, was it ever configured where the front of the houses faced the roads so it would be aligned with what we currently have in Brookville? Member Schreier asked if this is typical in other communities they have built in?

Mr. Reed replied most of their communities are constructed with the backs of some homes facing the street. Mr. Reed stated they did not look at another configuration as they feel this was the most efficient. They prefer to keep a close-knit community and it has never really been an issue as long as the HOA is enforcing the covenants and restrictions.

Chairperson Henderson commented that access control is important. It is safer to have residents backing up on roads less traveled, with slower speeds.

Member Schreier commented the speed limit is 35 mph on Upper Lewisburg Salem Road, but people tend to go faster.

Member Cordes stated his taxes for last year show \$80 out of \$4,400 went to the City of Brookville and twice that amount went to Clay Township. Member Cordes stated if this property is also in Clay Township, there is not a lot of money to be realized for Brookville from this development.

Mr. Reed replied the City would also receive the income tax from residents in the development.

Member Schreier advised the amount Brookville receives in property taxes is very low.

Member Sievers echoed Member Claggett's concern, stating she would like to see more open space. Member Sievers stated if you are going for a family friendly community, we need to have more green space.

Chairperson Henderson commented something else to keep in mind is that we currently measure the setback from the overhangs of homes, rather than the foundation, which will give the appearance that the homes are closer than we are used to. If there is an opportunity to add an additional two feet or more on each side, that would be more favorable to him than adding green space.

Mr. Reed asked what the current setbacks are?

Zoning Officer Snedeker attempted to respond but his audio was garbled.

Mayor Letner asked Mr. Reed what their target marketing group is?

Mr. Reed replied the target group is young families and first-time buyers.

Mr. Schile advised approximately 40% of their buyers are first-time buyers and 60% are in the move-up or second move-up buyer category. Most buyers would be between the ages of 25 and 50.

Mayor Letner commented that is a large down payment for first-time buyers at the \$230,000 price point.

Mr. Reed replied with financing as it is now, most buyers can purchase with 3.5% down, and the demand is certainly there right now.

Mayor Letner asked if the price point will stay the same with the escalating construction costs?

Mr. Schile stated they are not projecting construction costs to increase like they did in 2020.

Mayor Letner asked if their prices are locked in on building materials?

Mr. Schile replied the construction costs are variable until the point of contract.

Member Schreier asked if there is an escalation clause in the contract regarding building materials?

Mr. Reed replied because of the high demand they are currently taking a deposit to reserve a spot. Buyers are made aware the price is not locked in until they sign a contract.

Chairperson Henderson reminded Planning Commission they are not approving this plan tonight, they are simply providing commentary and feedback. Chairperson Henderson stated he will be asking for a motion to commence our rezoning process for City Council to consider changing this lot from R-1B to Planned Residential District, assuming everyone is feeling comfortable that we can move in a direction where this seems feasible.

Chairperson Henderson stated to summarize Planning Commission concerns, the green space is still a sticking point. If there is an opportunity, rather than asking for a variance between 5-yard setbacks, maybe they could look at getting this a little bit wider. It is a variance right now because it is measured to overhangs.

Zoning Officer Snedeker advised the side yard setback in R-1A is 15 feet, R-1B is 10 feet and R-1C is the sum of both to 20 feet. Planned Development is at 7.5 feet. Setbacks are measured from the overhang.

Chairperson Henderson stated the other item is the screening or backs of homes facing the roads. We currently have an area in Arlington Woods where the backs of homes face the street and it is possible to make it look good, but it is a concern when you have residents that do not take care of their properties.

Chairperson Henderson asked if anyone else had any feedback or commentary?

Member Requarth commented he still thinks this development is too dense for 18 acres. He understands some people do not want a lot of property to take care of, but he just does not see enough space for first time buyers, who are likely to be raising families. Member Requarth stated he thinks this will be a hard sell to the community if we cannot incorporate more green space. Member Requarth stated it is too dense as presented.

Member Sievers agreed, stating we are a small, family centered community, used to having a lot of space. In a place like Indianapolis, where you are within a very large city, that is one thing, but we are a really small community and this development, as presented, is too dense for that area.

Member Cordes agreed, stating he does not see why we would want these tiny lots. Member Cordes stated for families raising a child there is no place for them to play. Member Cordes indicated he has serious concerns about the density.

Member Schreier agreed density is a concern and stated it would help if the number of homes could be reduced to the mid-fifties. Member Schreier stated he understands this would remove a fair number of lots and recouping the costs for the developer may be difficult. Member Schreier stated there are some other houses in our community that are pretty close together, so it can work.

Mr. Reed said they appreciate the feedback, stating they are going to put their heads together and see if there is something they can resolve. Mr. Reed advised they have 10-12 successful communities in the Dayton, Columbus and Cincinnati market that have about 50-foot lots. Most first-time or move-up buyers do not want a large yard to take care of. Mr. Reed stated these buyers want a really nice home, in a community like Brookville, that they can share with their family and friends. Mr. Reed stated the HOA does a really good job of making sure that everything is well cared for and is aesthetically pleasing. Mr. Reed stated they will take Planning Commission comments into consideration, but they still want to move forward with this project and the re-zoning. Mr. Reed stated they will see if they can find a solution, but they really do believe this size of lot and types of homes are what the market is showing them. Mr. Reed stated an unofficial slogan they have is "we don't make the market, we serve the market" and they feel that the layout they presented does that.

Chairperson Henderson thanked Mr. Reed and Mr. Schile for their interest in Brookville, stating ultimately, we have to protect our community and make sure they understand what is going on. That is part of the Public Hearing process. Chairperson Henderson stated he hopes this has been helpful and indicated to them any hurdles and roadblocks that may come up down the road.

Chairperson Henderson asked for a motion to recommend to Council the re-zoning of Lot 1743 from R-1B to Planned Residential District. Chairperson Henderson asked that members also consider a Public Hearing on May 20, 2021 at the next Planning Commission meeting.

Member Requarth asked Mr. Reed where their nearest community is if Planning Commission members would like to go look at it?

Mr. Reed replied the closest is Lexington Place in Huber Heights. Members could also look at Waterford Landing in Fairborn and Brantwood Homes in Riverside. Their biggest community with over 1,000 varying size lots and homes is Winding Creek in Centerville.

Motion by Cordes, second by Schreier to recommend City Council to commence the rezoning of Part Lot 1743 from R-1B to (PD) Planned Residential District. Claggett yea, Letner yea, Cordes yea, Requarth nay, Schreier yea, Sievers yea, Henderson yea. Motion carried with six yeas and one nay.

Law Director Stephan commented the process will include two Public Hearings, one on May 20 and the second would be a joint Public Hearing with Council regarding the final rezoning on June 1, 2021.

Chairperson Henderson called for a motion to set the Public Hearing for this Planned Development rezoning for May 20, 2021 at the Planning Commission meeting.

Motion by Claggett, second by Sievers to set the Public Hearing regarding the rezoning of Lot 1743 from R-1B to (PD) Planned Residential District for May 20, 2021. All yeas, motion carried.

Zoning Officer Snedeker reported we have received eight building permit applications from Fisher Homes for the lots on Westbrook Road in the Meadows of Brookville. There are only two remaining lots, one will be sold to a homeowner and one is reserved for their model.

Zoning Officer Snedeker reported regarding rear yard setbacks, R-1A Suburban Residential District single-family dwellings have the largest minimum lot area of 12,500 square feet and a minimum floor area of 1,800 square feet. They have a 40-foot rear yard set-back depth. R-1B Urban Residential District has a minimum lot area of 10,000 square feet and minimum floor area of 1,600 square feet. This has a 40-foot rear yard setback. R-1C Urban Residential District has a minimum lot area of 8,400 square feet and a minimum floor area of 1,400 square feet. This also has a rear yard setback of 40-feet. Zoning Officer Snedeker stated the lots get smaller however, the rear yard setback remains the same. If R-1C had a 30-foot set back or even 35-feet, then it could entice a larger home in areas for development of moderate density single-family neighborhoods.

Member Schreier stated his opinion is that changing the rear yard setbacks to be a little less restrictive as deemed appropriate is a good idea. The front yard setbacks should remain the same but changing the rear yard setback even 5-feet may make or break a design fitting on a lot. Member Schreier asked if we had ever considered having a different zoning classification for smaller homes?

Law Director Stephan replied one of the concepts with Planned Development is that Planning Commission can adjust setbacks for specific projects. The other thing that he has looked at is that the older parts of Brookville developed before we had zoning have very small setbacks. He has considered developing another zoning district that would perhaps encompass those areas. We are dealing with variances there all the time and this would bring them into more conformity with the

code. Law Director Stephan stated with respect to R-1B and especially R-1C, if we would reduce the rear yard setback, we could encourage bigger homes in those zoning districts and maybe leave the 40-foot rear yard setback for the R-1A district which is the largest zoning district.

Law Director Stephan discussed setbacks in other communities and recommended a 35-foot rear yard setback for R-1B and 30-foot setback for R-1C, which would encourage larger homes but still keep the front yard appearance as you are not changing those setbacks.

Member Schreier commented modern home plans are often not perfect squares or even remotely square like they used to be. Some of these setbacks intrude on the plans and five feet could make a big difference.

Member Claggett asked if front yard setback is measured from the street or the sidewalk?

Zoning Officer Snedeker replied it is measured from the inside of the sidewalk.

Law Director Stephan presented a draft of revised zoning code for solar energy equipment as requested by Planning Commission. The current zoning code addresses solar energy equipment in Section 1157.10 of the Code of Ordinances. Section 1157.10 is located within Chapter 1157 on Accessory Uses. Accessory Use or Structure is defined in 1103.03 as: "A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure." Accessory uses in our code include garages, storage sheds, patios, open porches, and carports, swimming pools, satellite antenna dishes, and other accessory uses. Law Director Stephan reported he has reviewed a number of other zoning codes from other communities and most address solar energy equipment as an accessory use. Law Director Stephan provided a copy of zoning codes from Vandalia, Beavercreek, and Fairborn.

Law Director Stephan advised he has prepared a draft of two ordinances. One ordinance would place solar energy equipment within Chapter 1163.03 as a Special Use. The special use ordinance would require Planning Commission approval for every solar energy equipment application.

Law Director Stephan stated the other proposed ordinance would keep solar energy equipment with Chapter 1157 as an accessory use and establish standards of approval for solar energy equipment accessory use. The application for solar energy equipment accessory use would also have to be approved by Planning Commission. The ordinance would provide revised regulations for solar energy systems. With respect to the location in the rear yard of a ground mounted solar system, this Ordinance would require it to be located 10 feet from any property line but would allow the system to be located within the rear yard setback. The issue with the current rear yard setback in our single-family residential districts is that it is 40 feet, and with some lots, it is impossible to locate the solar system in the rear yard but outside of the rear yard setback. Many other accessory uses are permitted to be located within the rear yard setback, and therefore, permitting solar energy systems to be within the rear yard setback would be consistent with other accessory uses in the rear yard. An alternative solution to this issue would be to amend the rear yard setback to reduce the size of the rear yard setback, and then require the solar system in the rear yard but not in the rear yard setback.

Law Director advised Exhibit A of each draft ordinance has general provisions as follows:

General Provisions:

(1) All solar energy systems shall comply with all applicable zoning, building, fire, plumbing and electrical codes of the City of Brookville.

(2) This section shall apply to solar energy systems on private property for use by the property owner and shall not be construed to permit a solar energy farm as a business. A "solar energy farm" is defined as an energy generation facility or area of land principally used to convert solar energy to electricity.

(3) Only commercially produced solar energy systems are permitted. The manufacturer specifications shall be submitted as part of the application for approval.

(B) Ground-Mounted Solar Energy Systems

(1) Ground-mounted solar energy systems shall only be permitted in the rear yard and shall be set back a minimum of 10 feet from all lot lines.

(2) In conservation and residential districts, no ground mounted solar energy system shall exceed six feet in height as measured from the average grade at the base of the system. In commercial and industrial districts, no ground mounted solar energy system shall exceed 25 feet in height, or the maximum height of the building, whichever is less; provided, however, that if the ground mounted solar energy system is located in a rear yard that is adjacent to a lot in a residential district, the maximum height shall be six feet.

(3) Ground-mounted solar energy systems shall be screened from any adjacent lot lines of lots used for residential purposes by a fence, wall, landscaping or combination thereof.

(4) Ground-mounted solar energy systems shall not be positioned so as not to reflect sunlight onto neighboring property, public streets or sidewalks, including on any neighboring structures.

(5) The total area of the ground-mounted solar energy system shall not exceed more than fifteen percent (15%) of the rear yard area in residential districts.

(C) Roof-Mounted Solar Energy Systems

(1) Roof-mounted solar panels that are integrated with the surface

layer of the roof structure and which resemble common roofing materials may be permitted on any roof surface of a principal building or accessory building.

(2) Roof-mounted solar panels that are separated panels mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building that does not face a street. Such panels shall be mounted flush to the roof and not extend vertically from the roof structure more than eight inches.

(3) Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted at an angle provided they do not extend more than five feet above the roof surface.

(4) All wires and other associated appurtenances related to the solar energy systems shall be installed below the roofline and not visible from the street.

(5) Solar energy systems located on the roof shall provide, as part of their permit application, evidence of design review and structural certification signed by an engineer.

Law Director Stephan noted General Provisions (B)(1) would be different from the current code which requires it to be outside the rear yard setback. The other option would be to change the rear yard setback in some of these districts.

Law Director Stephan noted General Provisions (B)(2) could also be worded to say if the ground mounted solar energy equipment is located adjacent to any house, whether it is in an industrial or residential district, the maximum height would be six feet. We do have some areas of Brookville where we have a mixture of businesses and housing, for example on Albert Road, where the zoning is actually industrial.

Member Schreier stated the maximum six-foot height would be a good change as the recent variance application was for eight-foot solar panels, which is higher than the allowed privacy fence height.

Law Director Stephan stated some of the other ordinances he reviewed allow solar panels up to 12 feet in height, so we may get applications for solar panels higher than six feet.

Chairperson Henderson advised most companies will want taller panels as they are trying to get above the ground snow load. The panels need to get above six feet otherwise you are limiting the size of the panel. Six feet is possible, it is just going to depend on the manufacturer.

Law Director Stephan stated if we leave it at the six feet, it will match our fence height, but we are likely looking at a variance each time someone submits an application for solar panels higher than six feet.

Member Schreier commented this could create a reasonable number of variances that Planning Commission would have to consider.

Chairperson Henderson stated he is not opposed to reviewing applications for solar panels above six feet in height to determine whether they would be obtrusive to the surrounding area.

Chairperson Henderson asked if Planning Commission wants to start the process tonight to amend our zoning code or if they need more time to review the information presented?

Law Director Stephan advised the Accessory Use chapter is probably the appropriate place for it. Most jurisdictions will have the Zoning Officer approve it if it meets the requirements, but we can have Planning Members review all of these.

Law Director Stephan stated the process would be to have a first reading of the proposed Ordinance, then hold a Public Hearing then come back to Planning Commission for final recommendation.

Member Requarth stated if we also have a Public Hearing on the proposed setback changes and rear yard setback changes, we should try to do this all at one time to limit the number of required Public Hearings.

Law Director Stephan asked if Planning Members need additional time to review the information?

Member Requarth recommended Planning Commission move forward. Since the required process is lengthy, they will have time to review before making a final recommendation to Council.

Member Requarth stated he thinks most solar panel applications will come before Planning Commission anyway with a variance request for height or other issues.

Mayor Letner observed we are going to see more and more applications as technology evolves.

Member Claggett inquired if Planning should make this Special Use until we get a better feel for it?

Member Requarth replied we can make changes as technology evolves.

Chairperson Henderson stated the two exhibits presented by Law Director Stephan are different. One is for the accessory use and one is for Special Use. The accessory use option gives the Zoning Officer the ability to approve the application without Planning Commission involvement, as long as it is under the six-foot height requirement.

Member Sievers recommended the accessory use option so that Planning Commission does not have to review every application.

Members Requarth and Claggett agreed.

Member Schreier agreed, with the recommendation to change (B)(2) to clarify that any residential property next to an industrial property would be required to be six feet maximum height.

Law Director Stephan replied he could change the wording to refer to any residential property, rather than any residential district.

Motion by Requarth, second by Sievers to recommend to City Council to amend Section 1157.10 of the Code of Ordinances regulating solar energy equipment with a modification for any residential property adjacent to industrial property to comply with the six-foot maximum height requirement. All yeas, motion carried.

Chairperson Henderson asked if Planning Commission would like to move forward with changing rear yard setbacks?

Member Requarth suggested changing the rear yard setback in R-1B to 35 feet and the R-1C to 30 feet.

Member Schreier asked if this change would be heard at the same Public Hearing as the changes to the foundation setbacks?

Law Director Stephan replied he can put both the rear yard and foundation setback revisions in the same ordinance. The Public Hearing will be on the same night for both issues.

Motion by Schreier, second by Cordes to recommend to City Council to amend Sections 1123.03(b)(2) and 1125.03(b)(2) of the Code of Ordinances to amend the rear yard setback in R-1B to 35 feet and the rear yard setback in R-1C to 30 feet; and to amend Section 1103.03 of the Code of Ordinances to amend the definition of the building and setback line. All yeas, motion carried.

There was no Old Business.

Manager Keaton announced the City has two levies on the May 4 Primary ballot. Issue 1 is a .96 mill Park Levy and Issue 2 is a 3.85 mill Street Levy. Both levies are for a period of five years that will be placed on property tax bills for 2021, for collection in 2022. Manager Keaton indicated she emailed additional information to each Planning Member. Planning Members are welcome to help distribute door hangers with information on the levies next weekend. Manager Keaton also encouraged all citizens to get out and vote during the May primary.

Chairperson Henderson inquired if Planning Members are willing to hold a hybrid meeting next month, with Planning Members attending in person and the public attending virtually via Webex.

Member Schreier commented that Council has been holding hybrid meetings and it is working out well.

The consensus is the May 20, 2021 Planning Commission Meeting will be a hybrid in-person and virtual meeting.

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



Kimberly Duncan, Clerk

Ryan Henderson, Chairperson