



## Village of Galena ZONING AND PLANNING COMMISSION

### *MINUTES OF THE MEETING OF SEPTEMBER 21, 2016*

The Zoning and Planning Commission of the Village of Galena met on Wednesday September 21, 2016 in the Council Chambers of the Village Hall at 109 Harrison Street, Galena, Ohio. Present were members; President Tom Hopper, Dave Adams, Stan Swisher, Mark Brooks and Alison Cherubini Hillyer. Also present were Village Zoning Inspector David LaValle, Deputy Zoning Inspector and Code Compliance Assistant Levi Koehler, and visitors Dave Walker, David Blakemore, Gene Fuller, Jane Davis, Bob Long, Karl Billisits, Mike Murray, Todd Riche and Court Reporter Cathy Cathell of Spectrum Reporting. Village Zoning Clerk Sally Hopper was absent. Village Administrator Jeanna Burrell served as acting clerk. The meeting was officially called to order at 7:03 PM.

Copies of the minutes from the meeting of August 17, 2016 had been distributed to all members by the Clerk. A motion to approve the minutes, as presented, was made by Dave Adams, seconded by Alison Cherubini Hillyer and passed unanimously.

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The Mayor introduced that the 30 day tabling period was up for a hearing on the application of Arrowhead Lake Ventures, LLC, for a change in zoning district classification from Berkshire Township Agricultural (A1) and Village of Galena Farm Residential (FR1) to Village of Galena Planned Residential District (PRD), and approval of a development/subdivision plan for an 88+/- acre tract west of Old 3C Hwy, north of Heathermere Subdivision, east of Arrowhead Lakes Golf Club and south of the Sunbury village line made up of multiple pin numbers. He asked for a motion to un-table the application.

A motion to un-table the application and reopen the hearing, was made by Dave Adams, seconded by Stan Swisher and passed unanimously. All witnesses were sworn in by Court Reporter Cathy Cathell of Spectrum Reporting and the hearing reopened at 7:04 PM.

Mr. Karl Billisits, representing Arrowhead Lake Ventures, LLC made a presentation summarizing the changes to the project since the March meeting and also the challenges the applicants have faced. The application has now been modified to include only 71 acres and includes the section of the future Ohio to Erie Trail section owned by Jane Davis. The plans now call for 88 single family homes and 54 condos at 2 units per gross acre. The layout has been amended and the applicants have worked with Pulte to match up the stub street in the Sunbury Meadows development in the Village of Sunbury. They have met with the Sunbury Christian Church about road access issues on their property and all the proposed roadways are now on Arrowhead Lake property in Galena and not in Sunbury. They are working with the Ohio Department of Transportation (ODOT) and the earlier proposed access from SR3 may or may not be built. They have worked with Del-Co Water and Pulte on the sizes and locations of water connections.

Mr. Billisits went on to say that the applicants had met with the Delaware County Engineer's office about the proposed street connection with Old 3C Hwy. No traffic study will be needed. Turn lanes will be required when more than 10 turns a day are reached. The Engineer will require payment for the turn lanes up front but they will not be built. Instead the money will be used by the Engineer for the new traffic signal at Walnut Street and SR3.

The applicants have met with the Village staff about the high costs of construction for the section of the Ohio to Erie Trail through the project. They are now proposing that they make a cash donation and a land donation in lieu of construction of the trail.

Mr. Billisits then asked that the Commission move forward on the land use and leave the subdivision issues for later.

There were no questions from the public.

Zoning Inspector Dave LaValle then distributed copies of his staff review report and the engineering report prepared by IBI Group. These reports are attached and included as a part of these minutes. He corrected one item from the staff report in the table on Page 2 to show the number of single family lots had been increased from 75 to 88. He then read the 10 page staff report and recommendation into the record.

The report detailed his findings that the submission is lacking in detail as required under Section 10.09 of The Zoning Ordinance for items one through twelve. Among numerous deficiencies noted; sanitary sewer treatment is incorrectly shown as being provided by Sunbury, required architectural design criteria are missing, little information is shown on the proposed condominiums, no information is given on model homes, a required listing of proposed divergences is absent, bonding and property control information is incomplete, phasing and time periods for development are incomplete or missing, homeowners association restrictions, covenants and documentation for this specific development are absent. Also missing or incomplete are the certifications or sign offs from numerous agencies including the BST & G Fire District, Village of Sunbury, Del-Co Water, Delaware County Engineer, ODOT, American Electric Power, Columbia Gas, Sunbury Christian Church and the Heathermere Homeowners Association. Also the applicants have not consulted with the Big Walnut School District regarding a new community authority which is being required of all newly approved developments.

Mr. LaValle's conclusion was that the proposed subdivision faces some practical difficulties in that it fills a gap between two incorporated communities and links them with new roads, trails and utilities. Both communities will benefit and the development will provide a needed transition from the lower density Galena developments to the south and the higher densities in Sunbury to the north. The condos will also be a benefit to the area by filling a local housing type deficiency. The overall concept is good; however the feasibility remains in serious doubt.

Mr. LaValle went on to say that the development has been significantly modified from its initial concept. Several meetings have subsequently been held with the developer in a spirit of cooperation in an effort to move this project forward. The staff finds the developer has ignored or disregarded pertinent Village information, recommendations and regulations. The developer has burdened the Village with the introduction of last minute reviews. The developer has questioned the pass through costs for engineering review and has balked at payment as required in the Village Zoning and Subdivision Codes. Questions also remain on the legal structure of the future new community authority.

As a result Mr. LaValle's recommendation was that the subdivision proposal does not meet the minimum standards for a zoning district reclassification as contained and specified under Article 10 of the Zoning Code. As detailed in his report the plans have errors and omissions including, but not limited to, incomplete data, conflicting data, unspecified divergences and questionable legal constraints. Under the current review and findings he respectfully recommended the Commission should deny this application for a Planned Residential Development by Arrowhead Lake Ventures, LLC.

After Mr. LaValle finished his report Mr. Mike Murray of IBI Group, the Village Consulting Engineer, read his engineering review of the application. He listed 19 items which needed corrected or were incomplete. His conclusion was that based on his comments the information required to complete an engineering review of the preliminary application it is the opinion of IBI Group that the application is incomplete at this time.

At the conclusion of his report Mr. Murray was asked by Mayor Hopper if the items discussed in his report were needed to determine the engineering feasibility of the plan. Mr. Murray responded that yes, they were needed for preliminary approval of the plan.

There were no questions from the public.

The Commission then had a period of comment and questions.

Dave Adams stated he felt the Hearth Lane connection to SR3 would be needed for construction traffic. Stan Swisher questioned if the PRD requirements had been changed to 8 ft. side yards. Mayor Hopper stated that no they had not, but that 8 ft. side yards and 70 ft. wide lots were divergences that should have been listed in the application. There was a further discussion about lot widths at the building line.

Mayor Hopper stated that the staff had numerous meetings with the applicant and it had been made clear the application was a one step process with all the information detailed in the 12 questions. The application has a number of flaws. There is no list of divergences included. The new application did not respond to the items listed in the March staff report and no new text was provided. The engineering feasibility of the proposed development has not been shown. For example without the Delaware County Engineer stating that the entrance road from Old 3C can be built then the entire project is not feasible. The applicants still need BST & G approval of the street layout. There are potential drainage issues not addressed in the new design. All approvals are still needed. There are no architectural standards provided and it is clearly a different product than what was discussed in March but no description is provided. There are no elevation drawings shown for the condos or single family homes.

Mayor Hopper went on to say that before the application is sent on to Council all the technical issues must be worked out. Council should be approving the plan and text, not working out technical items. Many of the items listed as incomplete have been discussed with the applicant from day one. Suggestions by the applicant that the Homewood Miller Farm development was sent on for approval without all items being in place are not accurate. The Miller Farm application was complete and only minor detail items were worked on at the Council level.

Mayor Hopper stated that he believed that the proposed development is basically a good one that will benefit the Village. The staff has bent over backwards to help the applicant including working many hours with the state and other agencies trying to find the funding to build the trail when the applicant stated they could not afford to build it themselves. The process needs to be a partnership so that the end result is something everyone can be proud of. The applicant has been less than friendly and rude to the staff. The Village is not as inexperienced in such applications as the applicant seems to think. The approval procedures are not new and have been in place for many years and used by every other subdivision developer without much fuss or complaint. This application is very incomplete and should not be approved at this time.

Dave Adams discussed how it would be so much cheaper to build the trail at the same time as the roadways because of the volume of asphalt used. Mayor Hopper agreed but the applicant has stated they can't afford that so the Village is trying to find another way to allow the trail to happen.

Stan Swisher stated that the Commission needed pictures of the proposed homes and complete architectural standards as had been received from other developers in the past.

It was discussed that it has been six months from the beginning of hearing and the applicant was still submitting new material at 2:30 pm today. It was suggested that the applicant could request a continuance and use the time to provide more complete information. This idea was generally agreed to by members of the Commission.

Mr. Billisits responded that the Village had been without an engineer for several months during the application period which had caused delays beyond their control. Obtaining an ODOT approval for the access from SR3 would take longer than the timeframe for the application would allow. They have verified the plans from Sunbury for a stub street pointed toward the proposed development so what else was needed?

Mayor Hopper responded by asking if their stub matched up with the Sunbury plans. Without a sign off from Sunbury how would the Village know it was acceptable? Dave Adams added there could be a hiccup in building the road connection.

Mike Murray of IBI Group stated that the applicant could submit letters or emails showing the approvals needed by Sunbury and the other outside parties and agencies. He went on to say it is unclear in the application which streets are public and which are private. Ingress and egress for utilities is also unclear.

Mr. Billisits then discussed problems with coming up with timing and phasing based on issues with sewer service. He asked when they can get sewer service for the entire development. When can they flush toilets? They

cannot get a permit to install (PTI) the sewer lines in the development until the capacity in the plant. He suggested a meeting with Sunbury to discuss sewer service.

Mayor Hopper stated that the applicant has been told all this before. There are a certain amount of taps available today. The exact number is yet to be determined. The applicant does not need all the taps available today. The development will take years to use all the taps needed. Planning is ongoing for a plant expansion to service, not only the remainder of this development, but also the others that have already been approved. The target date for the additional capacity is 2018. Discussions with Sunbury have not led to any agreements for Sunbury to provide sanitary sewer service to Galena.

Mr. Billisits again asked can we get a PTI today. He wants to talk to the EPA. He added that in regards to the trail the applicants have added the Davis property which completes the trail route to Sunbury. The Mayor has "put lots of strings on the project" with issues dealing with other jurisdictions. He stated that the zoning inspector can determine the divergences requested by reviewing the application.

Mayor Hopper again stated that the list of divergences must be supplied by the applicant as clearly stated in the application requirements. It is not the zoning inspector's job to "find" them.

Mr. Billisits then asked for the hearing to be continued and tabled until the October 19<sup>th</sup> meeting date to allow time to work out the various technical and engineering issues.

Mr. LaValle pointed out that changes need to be submitted at least two weeks in advance of the meeting to allow the staff and Village Engineer to conduct a proper review of the new materials.

A motion to table the application and continue the hearing until the October 19<sup>th</sup> meeting, was made by Dave Adams, seconded by Mark Brooks and passed unanimously. The hearing ended at 8:42 PM. The court reporter was dismissed.

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The Commission took a brief rest break until 8:54 when the meeting resumed.

Mr. LaValle then presented the first part of his and Deputy Zoning Inspector and Code Compliance Assistant Levi Koehler's written monthly activity report which is attached and incorporated as part of these minutes. He gave a summary to the Commission.

He reported that owner Eddy Ambrose of Sambuca's Nursery and Greenhouse, at 577 North Walnut Street, called him today about a permit to install a new \$25,000 sign. He was encouraged to file a development plan amendment. Mr. LaValle will send him the information on how to do so again. Mr. Ambrose pleaded not guilty in Delaware Municipal Court for the original sign violation. The sign is in place in spite of verdicts from both the Delaware Common Pleas Court and the Ohio 5<sup>th</sup> District Court of Appeals that it must be removed from the public right-of-way. Mr. Ambrose's attorney told the judge the sign would be removed. The next plea hearing is scheduled for November 11<sup>th</sup>. ODOT has also sent a letter to Mr. Ambrose requiring him to remove the sign as well as metal gates/posts, wire fencing, inventory, irrigation lines and other free standing signs from the public right-of-way. Mr. LaValle continues to work with the Solicitor for determination of further citations and/or legal actions.

The rest of the report was presented by Deputy Zoning Inspector and Code Compliance Assistant Levi Koehler.

Mr. Koehler reports the staff is monitoring exterior property maintenance citations at 225 and 177 Harrison Street, 387 Quinn Street and the Galena Commerce Center. Observation on properties previously granted extensions for exterior property maintenance violations continue. Construction of the new home at 24 Front Street is progressing.

Mr. Koehler went on to discuss the work on the staff review of Arrowhead Lake Estates. Permits were issued for a new build home at 391 Hawking Drive, a poured patio at 379 Hawking Drive and a deck at 498 Zoar Street. The zoning staff continues to make slow progress on the Subdivision Code revisions.

Dave Adams made a motion to no longer require a formal complaint form or allow residents to know where the complaints filed against them come from. There was no second.

The motions lead to a lively discussion by the Commission. Mr. Adams doesn't think it is right for people to not be able to file a complaint without their neighbors knowing it came from them. Mark Brooks stated most of the problems are with rental properties and a lot of the people are poor and the Village needs to show compassion. Mayor Hopper responded that the Village insurance carrier has required the Village to use a written complaint form showing who filed the complaint and showing the response.

After the discussion Mr. Adams withdrew his motion.

The zoning clerk had nothing additional to report.

There was no old business.

There was no new business.

There being no further business before the Commission, a motion to adjourn the meeting was made by Stan Swisher, seconded by Mark Brooks, and passed unanimously. **The next scheduled meeting will be on Wednesday, October 19, 2016 at 7:00 PM.** The meeting was officially adjourned at 9:24 PM.

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Clerk

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Chairman

CERTIFICATION

I, Sally H. Hopper, Clerk of The Planning & Zoning Commission of the Village of Galena, Ohio do hereby certify that publication of the above MINUTES were duly made by posting true copies thereof at five (5) of the most public places in the Village of Galena as provided for in Resolution No. 2015-18 enacted by the Council of the Village of Galena on November 23, 2015.

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Sally H. Hopper, Clerk