

Minutes of the Land Use and Development Committee

The Land Use and Development Committee of the McLean County Board met on Thursday, September 7, 2006 at 4:45 p.m. in Room 400, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Chairman Gordon, Members, Rackauskas, Baggett, Segobiano, Cavallini and Ahart

Members Absent: None

Other Board Members Present: None

Staff Present: Mr. John Zeunik, County Administrator;
Ms. Christine Northcutt, Recording Secretary,
County Administrator's Office

Department Heads/
Elected Officials
Present:

Mr. Phil Dick, Director, Building and Zoning

Others Present:

Mr. Lynn Rader and Mrs. Linda Rader; Mr. Bob Lenz, Attorney representing Regions Bank, Mr. David Brown, Civil Engineer, Lewis, Yockey, and Brown

Chairman Gordon called the meeting to order at 4:47 p.m. Chairman Gordon stated that the first order of business is the approval of the August 3, 2006 minutes. Hearing no additions or corrections, he placed the minutes of the August 3, 2006 Land Use and Development Committee meeting on file as submitted.

Chairman Gordon presented the bills from August 31, 2006 which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor. The prepaid total and fund total for the July bills is \$37,514.44.

Motion by Cavallini/Baggett to recommend approval of the August 31, 2006 bills as presented by the County Auditor. Motion carried.

Chairman Gordon stated that first item for action is a request of the McLean County Solid Waste Management Technical Committee to approve several grant applications. Chairman Gordon asked Mr. Phil Dick, Director, Building and Zoning, to present this item to the Committee. Mr. Dick invited Ms. Michelle Covi, Director, Ecology Action Center, to join the Committee for this discussion. Mr. Dick informed the Committee that the grant awards are detailed in Ms. Covi's memo to the Committee along with the Resolution recommending approval of award of the grants.

Motion by Segobiano/Rackauskas to recommend approval of a Resolution Approving the Grant Awards recommended by the McLean County Solid Waste Technical Committee. Motion carried.

Chairman Gordon stated the next item for action is an application of Lynn and Linda Rader for waiver of preliminary plan requirements and a one lot final subdivision plat for the Rader Subdivision which is located at 1238 Ropp Road, Normal. Mr. Dick advised the Committee that this is a request to set aside one house for a one lot subdivision in Normal for Mr. Lynn Rader and Ms. Lynn Rader. This lot meets the minimum lot requirements of the Zoning Ordinance. This request has been reviewed and recommended for approval by the County Highway Department. The County Health Department recommends approval of this request provided an adequate septic system for the residence to the north of the proposed lot, which is on one of the parcels from which the proposed lot is being set aside. Mr. Dick informed the Committee that this parcel is within 1½ miles of Normal, so the Town of Normal will have to approve the request as well. Mr. Dick stated that Mr. and Mrs. Rader are present at this evening's meeting if there are any questions.

Motion by Segobiano/Rackauskas to recommend approval of an application of Lynn and Linda Rader for waiver of preliminary plan requirements and a one lot final subdivision plat for the Rader Subdivision which is located at 1238 Ropp Road contingent on the approval of an adequate septic system for the existing dwelling to the north of this proposed lot by the County Health Department. Motion carried.

Chairman Gordon stated that the last item for action is a request by Mr. Robert Lenz representing Planters Bank, d/b/a Regions Bank to reinstate and extend the preliminary plan for the Prairieland Subdivision for a period of three years. The

Subdivision is located in Dry Grove Township immediately southwest of the intersection of 975 East Road and the Old Peoria Road.

Mr. Dick informed the Committee that this is a 57 acre property for which a preliminary plan was originally approved on July 20, 1999, was reinstated for a period of one year on April 20, 2004 and expired on April 20, 2005. He noted that the Committee is reasonably familiar with this case as they have had dealings with this property when it was being developed by Mr. David Nesbit.

Mr. Dick stated that the County Health Department recommends approval of reinstatement of the preliminary plan contingent upon approval of all required Illinois Environmental Protection Act (IEPA) permits and ownership changes made to these IEPA permits. The County Highway Department recommends approval if all of the information from the title sheet if it is made current. Mr. Dick stated that Building and Zoning recommends approval of this project if the name of the proposed developer be made public.

Chairman Gordon thanked Mr. Dick and invited Mr. Bob Lenz and Mr. David Brown, Civil Engineer, Lewis, Yockey and Brown to address the Committee. Mr. Lenz informed the Committee that the ownership of the Prairieland Subdivision has been transferred from Mr. David Nesbit to Regions Bank formerly Union Planters Bank. When Regions Bank acquired the property by mutual agreement with Mr. Nesbit, the bank began looking for a buyer. Regions Bank signed a contract to sell the property to Mr. Rick Ramirez. Mr. Ramirez has engaged Lewis, Yockey, and Brown to review the construction drawings and all of the previous work completed by Mr. Nesbit. That work is ongoing.

Mr. Lenz explained that it will be impossible to sell this property if the preliminary plan has not been reinstated. In fact, one of the conditions of the real estate closing, which is anticipated between now and the end of October, is that the preliminary plan be reinstated. Mr. Lenz advised that the proposed developer is not asking for any changes or modifications at this time, because the developer and his engineering firm are still in the investigative stage of this process. At one point, Mr. Jeff Tracy, Project Manager, Highway Department, and employees at the Health Department stated that permits were in place and that testing had been done for the underground water lines that had been installed. Because so much time has passed, it would not be prudent to rely on out of date tests. When the results of current tests are known and turn out favorably or at least fixable, there will be a transfer of ownership.

Mr. Lenz stated that the only reason that he had not revealed the name of the developer is because the preliminary plan will need to be reinstated no matter who purchases the property. Mr. Lenz assured the Committee that Regions Bank does not want to repeat the mistakes that were made when Mr. Nesbit was attempting to develop this property. Regions Bank has a vested interest in

finding a reputable business person to buy the property. He also noted that there may or may not be a request for modification to the preliminary plan once it is reinstated and Mr. Ramirez or another developer purchases the property. All of that is dependent upon the results of the tests and the outcome of the due diligence. Mr. Lenz stated that he would be glad to answer any questions that the Committee may have.

Mr. Segobiano stated that he came to this meeting with no intentions of reinstating the preliminary plan if Mr. Nesbit was in any way involved in this process. He noted that Mr. Ramirez is one of the people who lives in that area and was one of Mr. Nesbit's major objectors. The runoff from the proposed subdivision was affecting his home. Mr. Segobiano continued that he feels better after hearing Mr. Lenz explain the situation and knowing that Mr. Brown will be involved in this process. He stated that he has no misgivings voting to recommend the reinstatement of this preliminary plan.

Chairman Gordon asked Mr. Brown if he would like to give a brief explanation of what Lewis, Yockey and Brown has done thus far on the subdivision. Mr. Brown informed the Committee that the engineering firm has looked into all of the improvements that have been installed to date. They have inspected the existing storm sewer facilities, the sanitary sewer collection and treatment systems. They have inspected the water system that Bloomington Township Water District (BTWD) maintains. They have spoken to Mr. Frank Catrell of the BTWD and Mr. Tracy about the existence of inspection notes on the storm sewers and streets, etc. There will certainly need to be adequate proof of work done to the public areas, such as the streets, before they could be turned over to whatever agency will maintain those areas. The public's interests are protected in those ways. Mr. Brown stated that his firm has a longstanding reputation in McLean County for providing this type of development service. The firm also wants to be sure that the product that is offered on the market by Mr. Ramirez is a quality product.

Motion by Segobiano/Rackauskas to recommend approval of reinstatement of the Preliminary Plan for the Prairieland Subdivision contingent upon approval of all required IEPA permits and ownership changes made to those IEPA permits.

Mr. Lenz added that he has been trying to gain access to the construction drawings that Mr. Nesbit provided to the IEPA when he was developing this subdivision. It is apparent that he did not keep a well-organized, documented file. It has been very difficult with the new privacy laws to get those documents from the IEPA. That is part of the reason that this process seems to be taking longer than anticipated.

Ms. Rackauskas responded that there is a lot of red tape to be dealt with at IEPA and asked if there is anything that staff can do to speed up the process.

Mr. Dick responded that Mr. Brown and Mr. Ramirez may try to get Mr. Nesbit's permits reinstated rather than having to apply for new permits.

Mr. Segobiano stated that if Mr. Ramirez, who is a very astute businessman, is handling the proposed development, the Committee can rest assured that it will be done properly. He added that, for the sake of the property owners in that area, the Committee should vote to move forward with this project or shut it down completely. With the help of Lewis, Yockey and Brown, this project could be very successful.

Ms. Ahart stated that she is worried about all of the property owners in the area that had expressed concerns about this project. If the preliminary plan is reinstated without their input, they may feel that they got the shaft, yet again. Ms. Ahart added that she has the utmost respect for Mr. Ramirez, but she wants to be sure that the public's concerns are addressed.

Mr. Segobiano reminded Ms. Ahart that Mr. Ramirez was one of the major objectors when Mr. Nesbit was developing this project. It would be a safe assumption that he will develop a subdivision that will take into consideration the objections of the people who live in the area.

Ms. Ahart asked if this preliminary plan could be approved with a contingency that Mr. Ramirez must be the developer.

Mr. Cavallini stated that he feels that the cover sheet of the preliminary plan still bears Mr. Nesbit's name. He feels that the project is "tainted" if Mr. Nesbit's name is listed anywhere on the project.

Ms. Rackauskas addressed Ms. Ahart's comments. She noted that minutes of the previous public hearings are available for view by anyone interested. Further public hearings are most likely not necessary in this case. The previous objections are known and are in writing. In addition, she asked if Mr. Ramirez has any development experience.

Mr. Lenz responded that if the Committee wants to address a "name" today, it should not be Mr. Ramirez, because his purchase is subject to some due diligence. The present owner is Regions Bank. Mr. Lenz noted that if the preliminary plan is not reinstated, the project is dead in the water. The name on the cover sheet of the preliminary plan should be Regions Bank, not Mr. Ramirez. If Regions Bank does in fact complete the sale of the property to

Mr. Ramirez in a few months, this will not be a matter for the Committee to consider. This is just a land sale. Mr. Ramirez is only a contract buyer subject to the satisfactory completion of due diligence.

Chairman Gordon replied that when Mr. Lenz presents his case in that manner, it undercuts his inclination to recommend approval of the reinstatement of this preliminary plan. He noted that because Members of the Committee think very highly of Mr. Ramirez, he would feel more comfortable recommending reinstatement of the preliminary plan with his name attached to the project.

Mr. Lenz responded that the only reason that he brought that to the Committee's attention is because he wanted to be candid with them. He cannot be 100% certain that Mr. Ramirez will be the buyer because it depends on the due diligence. Mr. Lenz stated that he has been Mr. Ramirez's attorney for many years and knows he is active in real estate investment. Both parties have consented to have Mr. Lenz act as the attorney in this transaction. Like any investor, Mr. Ramirez does not know all the answers, that is why he has hired Lewis, Yockey and Brown to assist with the due diligence process. Mr. Lenz noted that Mr. Ramirez will not close on this loan, nor would he be advised to do so, if the preliminary plan is not reinstated. The preliminary plan will have to be reinstated before any developer will purchase this property. Mr. Lenz assured the Committee that there is a good faith arrangement between Mr. Ramirez and Regions Bank at the moment. He also gave his personal assurance that he will advise the Committee if things do not work out between these two parties.

Mr. Dick asked if the Committee could recommend approval to reinstate the preliminary plan with a contingency that Mr. Ramirez must be the developer. Mr. Lenz replied that he does not have a problem with that, but that would be a very unusual contingency to place upon this transaction. Mr. Lenz asked if that has ever been done before. Mr. Dick stated that he doesn't ever recall the Committee having to approve a preliminary plan with a bank as the developer. Mr. Lenz stated that this is a similar circumstance when a preliminary plan is approved in any case. Mr. Dick responded that usually the developer's name is on the preliminary plan.

Mr. Segobiano stated that the County Board has the final word if and when they approve the final plat. Consequently, the Committee needs to move this development forward. Mr. Segobiano also noted that he would be in favor of reconsidering this motion if Regions Bank were to bring in a candidate to develop this subdivision that was unsuitable.

Mr. Cavallini asked why the preliminary plan is being proposed to be reinstated for a three-year period. Mr. Lenz stated that he believes that due diligence will be completed in less than three years. But, after the due diligence phase is completed, construction must be completed and lots must be sold. Three years

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is a fairly normal development period. The problem with this particular request is its history.

Chairman Gordon stated that his main concern is that the Committee is not 100% certain whom the developer will be.

Ms. Rackauskas stated that she has to agree with Mr. Lenz in that there would not be any developers willing to buy this property if the preliminary plan is not reinstated. Ms. Rackauskas also noted that she has trust in the bank because they have lost in this deal as well. They want to be sure that it will be successful if and when the land is purchased by another developer.

Mr. Segobiano called for the question. Chairman Gordon asked if there was any objection. Hearing none, he stated the chair will vote and recommended a roll call vote.

Member Ahart	"Yes"
Member Baggett	"Yes"
Member Cavallini	"Yes"
Member Rackauskas	"Yes"
Vice Chair Segobiano	"Yes"
Chairman Gordon	"No"

Motion carried 5-1.

Mr. Lenz thanked the Committee. Chairman Gordon thanked Mr. Lenz and Mr. Brown. Mr. Segobiano asked that the Committee be informed should Mr. Ramirez not complete the purchase of this property. Mr. Lenz stated that he has given his assurance that will happen.

The Committee had a discussion regarding whether Mr. Nesbit's name should be taken off of the cover page of the preliminary plan. Mr. Dick informed them that the Resolution reinstating the preliminary plan lists Regions Bank as the owner of the property. The Committee was satisfied.

Chairman Gordon informed the Committee that due to a scheduling conflict, the October meeting will take place on Thursday, September 28th.

The Partners in Planning Conference is October 4-5, 2006 at the Doubletree Hotel, Bloomington.

The Citizen Planners Workshop is Friday, October 13, 2006 at the Government Center. This is just a reminder as these meetings were mentioned at last month's meeting.

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Chairman Gordon asked if there were any other comments or questions from the Committee. Hearing none, he adjourned the meeting at 5:49 p.m.

Respectfully submitted,

Christine Northcutt
Recording Secretary

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