

CYNTHIANA-HARRISON COUNTY-BERRY
JOINT PLANNING COMMISSION

REGULAR MEETING
MINUTES
JUNE 19, 2017

Harrison County Health Dept. Conference Room

6:30 P.M.

Chairman Bear called the meeting to order at 6:30 P.M.

Present: Avi Bear-Chairman, Mathew Harney-Vice Chairman, David Kramer-Secretary,
Rick Boland, Robert Owen, Diana Wells, and Daryl Northcutt.
Bonnie Skinner-Zoning Administrator
Rochelle Boland-Legal Counsel for Commission
Christopher Philpot-Building Inspector
Charlene Fuller-Recording Secretary

Minutes-May 15, 2017

Robert Owen made a motion to approve the minutes of May 15, 2017. Diana Wells
David Kramer seconded. Boland, Owen, Wells, Northcutt, Harney, Kramer and Bear
voted yes. None voted no. Motion Passed 7-0.

Items for Postponement or withdrawal:

None.

APPLICATIONS

1. Old Business

A. None.

2. New Business

A. PUBLIC HEARING: #ZMA-01-17, Harrison Memorial Hospital, Inc.-Request
Zone Change from A-1 (Agricultural One) to Residential One (R-1) for 19.929
acres at Ky. Hwy 36 E. (Map# 116-0000-005-00-000) (Art. 10 Sec. 10.2).

Harrison Memorial Hospital, Inc. were represented by John Hunt, Engineer and
Attorney Kelli Mulberry, representative for applicant.

Attorney Mulberry stated the application request heard last month was different
than requested tonight of zoning from A-1 to R-1 for the senior citizen residence
and A-1 to B-1 (later corrected as B-2) for the wellness center.

Chairman Bear clarified for the public that this hearing was strictly to determine the
zone change and that any development plan would be considered at a later meeting.

Chairman Bear opened the hearing to the public for comment.

Public Comment:

Attorney James Thomas, representing property owners of Country Club Estates and several surrounding residents, stated the following:

There was no legal justification to approve the zone change. The country club residents pay \$50.00 to maintain the entrance. It is intended to serve Country Club Estates and its associated deed restrictions so shared access is significant.

Chairman Bear stated the following: The proposed development plan shows a gate from the residential area going into the wellness center. The proposed development plan has not been approved yet. This is a zone change and the development plan will be reviewed later after the city commission's review of the zone change.

David Kramer asked if the \$50.00 to help maintain the road or to cut the grass and plantings. He stated that was the landscaping at the entrance and is not maintained by the city but the road was maintained by the city. He then stated to Attorney Thomas that his implication is that the \$50.00 was used to take care of the road.

Attorney James Thomas asked if there was any federal funding for this project?

Chairman Bear stated this was irrelevant and asked Attorney Mulberry if this would be relevant if it went to court.

Attorney Mulberry stated she didn't believe it was relevant.

Attorney James Thomas stated it was relevant and you will find out in a minute.

Rowland Ratliff, resident of Country Club Estates, expressed concerns over the use of the entrance, and the lack of deed restrictions on the subject property which was intended to be a continuation of Country Club Estates. Why wouldn't the hospital use the entrance to the wellness center. As the news article stated the country club estates residents asked for R-1.

Attorney Rochelle Boland, legal counsel for planning commission, stated the following: Legally to say that we don't like this entrance is absolutely no legal justification for this commission to deny a zone change and if the hospital took it to court it would be kicked out. All these arguments are perfectly appropriate to be brought up when the development plan is considered. At this hearing what is relevant is whether there are reasons that the R-1 zone is not appropriate.

Attorney James Thomas read from a handout of Kentucky's Civil War Battles of Cynthiana Civil War Driving Tour Site 8 sign, copy of Update to the Civil War Sites

Advisory Commission Report on the Nation's Civil War Battlefields 2008. (See Attachment) He argued that the Commission was bound by the Comprehensive Plan to preserve historic sites and therefore the zone change should not be approved.

Ann Ratliff, resident of Country Club Estates, also spoke opposing the zone change, stating that she saw no benefit to the community.

Darwin Root, resident of Country Club Estates, spoke in favor of the zone change.

Chris Jacobs, resident of Country Club Estates, stated that she opposed the entrance.

Chairman Bear called for any other comment. There being none, the hearing was then closed.

The Commission discussed that the requested zone change was in compliance with the land use maps in the Comprehensive Plan, and that the subject property was surrounded by R-1 zoned property.

David Kramer made a motion to forward a recommendation of approval to the Cynthiana City Commission that the re-zoning from Agricultural One (A-1) to Residential One (R-1) on 19.929 acres at Ky. Hwy. 36 E. for ZMA-02-17 based on the findings of fact of staff recommendation: 1.) The request is in agreement with the 2012 Comprehensive Plan, specifically both the Future Land Use and the written language of the plan. 2.) The requested zone change is compatible with the surrounding zones and land uses. The adjoining properties to the north, west and east are zones R-1 and fully developed as a stable residential development. Daryl Northcutt seconded. A poll vote was taken: Rick Boland-yes, Robert Owen-yes, Diana Wells-yes, Daryl Northcutt-yes, Mathew Harney-yes, David Kramer-yes and Avi Bear-yes. Motion Passed 7-0.

B. #ZMA-03-17: PUBLIC HEARING-Harrison Memorial Hospital, Inc.-Request Zone Change from A-1 (Agricultural One) to B-2 (Neighborhood-Commercial) for 6.804 acres at Ky. Hwy. 36 E. (Map#116-0000-005-00-000) (Art. 10 Sec. 10.6)

Harrison Memorial Hospital, Inc. was represented by John Hunt, Engineer and Attorney Kelli Mulberry.

Attorney Kelli Mulberry stated the zoning on the opposite side of 36 East from the subject property was consistent with the B-2 zoning request for the wellness center. She then stated the request was not contrary to the comprehensive plan.

Chairman Bear opened the hearing to the public for comment.

Public Comment:

Attorney James Thomas, representing property owners of Country Club Estates and surrounding residents, asked how did a wellness center from a club house?

Attorney Kelli Mulberry stated the wellness center would be for use by the residents of the new development and for physical therapy patients of the hospital, but may not be used by the general public.

Attorney James Thomas stated the following:

Any kind of business permitted in a B-2 zone could be constructed on this property if the zone change is granted. Granting would be against the future land use plan and be in violation of the comprehensive plan, where the property is designated for future use as R-1. In addition, the historic site concerns still apply. The Commission is supposed to abide by the comprehensive plan. Part of this job is to protect historic sites.

Attorney James Thomas further stated that this is spot zoning to allow one to come in and request a zone change to B-2 on the subject property which was recommended for R-1 and is surrounded by R-1 primarily.

Chairman Bear stated there was B-2 zoning there across from this on Royal Oak and the hospital across the street was also zoned B-2.

Chairman Bear called for any other comment. There being none, the hearing was then closed.

The Commission discussed its concerns about the possibility of a different B-2 use being located on the subject property which might not be appropriate at this location. After determining that the Commission did not have the right to impose conditions on the zone change which would restrict the specific use of the property, Bonnie Skinner was consulted concerning the possibility of obtaining a conditional use permit for the wellness center even if the zoning remained A-1. She confirmed that under the Zoning Ordinance, it would be possible for the hospital to apply for a conditional use for the center, which would then allow the considering Board of Adjustments to impose condition if it chose to approve such an application.

David Kramer made a motion to forward a recommendation of denial to the Cynthiana City Commission based on the fact that the proposed zone change from Agricultural One (A-1) to Business Two (B-2) on 6.804 acres at Ky. Hwy. 36 E. is not in compliance with the comprehensive plan. Mathew Harney seconded. A poll vote was taken: Rick Boland-yes, Robert Owen-yes, Diana Wells-yes, Daryl Northcutt-yes, Mathew Harney-yes, David Kramer-yes and Avi Bear-yes. Motion Passed 6-1.

OTHER BUSINESS

1. Old Business

A. None.

2. New Business

A. Annual Election of Officers

Robert Owen made a motion to retain the current officers (Avi Bear-Chairman, Mathew Harney-Vice Chairman and David Kramer-Treasurer). Rick Boland seconded. A poll vote was taken: Rick Boland-yes, Robert Owen-yes, Diana Wells-yes, Daryl Northcutt-yes, Mathew Harney-yes, David Kramer-yes and Avi Bear-abstained from vote. None voted no. Motion Passed-7-0.

B. Building Permits and Financial Report

Administrative Review


C. Kentucky Bank

David Kramer made a motion to change banking institution to Kentucky Bank. Robert Owen seconded. Boland, Owen, Wells, Northcutt, Harney, Kramer and Bear voted yes. None voted no. Motion Passed 7-0.

Adjourn:

Robert Owen made a motion being no other discussion the meeting was adjourned at 8:25 p.m. seconded. Boland, Owen, Wells, Northcutt, Harney, Kramer and Bear voted yes. None voted no. Motion Passed 7-0.



Avi Bear, Chairman

David Kramer, Secretary