



MINUTES
PLANNING COMMISSION - REGULAR SESSION
WEDNESDAY, OCTOBER 2, 2024, 4:00 PM

The Planning Commission convened in regular session at 4:00 PM, October 2, 2024. Chair Justin Boyd called the meeting to order.

Roll Call

Attendee Name	Title	Status
Justin Boyd	Commission Chair	Present
Mary Ann Cullen	Commissioner	Present (4:15 PM)
Mark Muehleck	Commissioner	Present
David Lewis	Commissioner	Present
Brady Sant Amour	Commissioner	Present
Jackie Beyer	Commission Vice Chair	Present
William Peradotti	Commissioner	Present
Thomas Krieger	Commissioner	Absent
Anna Patino	Commissioner	Absent
Goverdhan Galpalli	Commissioner	Absent

Staff present included: George Boyle, Assistant Corporation Counsel; Kelly Pfeifer, Assistant Economic & Community Development Director; Jon Branham, City Planner; Alissa Pemberton, City Planner; and John Myers, Assistant City Planner.

Public Comment

There was no public comment provided.

Consent Agenda

Vice Chair Beyer noted that the 800 square foot restriction was not "proposed," but "existing" and should be corrected as such, on the bottom of page 7 of the packet (page 4 of the minutes).

Commissioner Beyer made a motion, seconded by Commissioner Peradotti, to approve the consent agenda, including the discussed correction.

Chair Boyd directed the clerk to call roll:

AYES: Boyd; Lewis; Amour; Muehleck; Peradotti; Beyer; Cullen

Motion passed.

Item 4.A. Consideration and action to approve the Minutes of the September 4, 2024, regular meeting of the Bloomington Planning Commission.

Regular Agenda

The following item was presented:

Item 5.A. Z -11-24 - Public hearing, consideration, and action on a request by Aruthra, LLC, for an Annexation Agreement and Zoning Map Amendment , from County R-2 (Two-Family Residential) District to City R-2 (Mixed Residence) District, pertaining to property generally located north of the intersection of Fox Creek Road and St. Ivans Circle, consisting of approximately 6.57 acres (PIN: 21-18-153-009).

Ms. Pemberton presented the Staff Report with recommendation for approval. She reviewed the process for approval of an Annexation Agreement, as well as for zoning and subdivision commitments within the subject Agreement. She noted the Planning Commission's specific purview was the Zoning Map Amendment and provisions of the Agreement that could interfere with implementation of the Amendment or Code. She highlighted the Special Use and Variances that are part of the larger project, stating they are the purview of the Zoning Board of Appeals and would be heard by that Board at a later date. Before City Council holds their public hearing on the Agreement, and before approval of any version of the Agreement, all items being resolved will have already been vetted through the public hearing and recommendation process by the appropriate Board or Commission.

Ms. Pemberton highlighted key aspects of the property and project, including the proposed Zoning Map Amendment from County R-2 to City R-2, and reviewed the similarities and differences between the permitted and special uses in the two districts, including restrictions on dwelling type present in the City zoning that are not in the County zoning. She provided additional detail on the proposed Concept Plan and planned development, including construction of 4-unit townhome structures with the goal of fee-simply ownership of the units, including underlying land. She detailed compliance with the Comprehensive Plan, noting that the proposal is on the very low end of the classification as "Medium Density Residential," just over 8 dwelling units per acre.

Chair Boyd asked for additional details on existing public infrastructure. Ms. Pemberton explain that the subject property is surrounded by other developed areas, with existing public water and sewer on-site or immediately adjacent; no public infrastructure extension would be required to serve the property or uses developed on it.

Vice Chair Beyer asked about the impacts of providing site access from Fox Creek Road. Specifically, she expressed concerns about the proximity of any potential curb cut to St. Ivans and Ridge Creek and possible traffic concerns. She inquired whether the City is doing anything to address traffic concerns in the area.

Ms. Pemberton stated the site must be allowed at least one access point to the public road; earlier versions of the project had the curb cut aligned with St. Ivans, but the Developer was asked to adjust the location out of alignment with St. Ivans to reduce conflict in situations of simultaneous left turns. The City's Traffic Engineer and Department of Operations and Engineering Services have reviewed the proposal and provided preliminary approval.

Vice Chair Beyer reiterated her concerns about possible traffic issues on Fox Creek Road and requested additional detail on how access will be implemented.

Kevin Kothe, City Engineer, explained that Fox Creek Road is the arterial collector for the neighborhood, so all side streets have stop signs. A new entrance from the subject property would also have a stop sign. He discussed the status of the bridge and road widening project for the portion of Fox Creek Road between Danbury Drive and Beich Road that is only 2-lane, stating it has been in planned for a few years now, but is getting close to implementation. He noted the project included traffic signals at Beich Road and Danbury Drive, where the section of Fox Creek Road is busier than the portion adjacent to the property proposed for annexation.

Commissioner Cullen arrived at 4:15 PM.

Chair Boyd opened the public hearing.

David Armstrong (Attorney for the Applicant) discussed key features of the property, including the size and zoning, noting that the proposed zoning is more restrictive of housing types than the current County zoning. He described the proposed development as 58 single-family homes and clarified the proposal was not for subsidized housing. He provided an estimated sale point of \$300,000 and stated equivalency to 80% of the value of homes being constructed on Savanna Road. He noted that no City expenditures are required to serve the development, but it will result in an increased the tax base.

Neil Finlen (Farnsworth Group, Engineer for the Applicant) thanked the audience for the questions that were put forth in advance of the hearing so they could make sure they provide answers. He noted the pressing need for housing in the area, particularly for an increased variety of home types, and referred to the project as filling this need on an infill property. He reviewed detail on the public infrastructure adjacent to the property and explained fees (adjacent road, water/sewer tap-on, parkland, annexation) that the Applicant will pay to the City as part of the project, equating it to a few hundred thousand dollars.

He explained that he had worked with other developers on three (3) different layouts for projects on this site and none were able to make it work. Due to the odd shape of the lot and drainage requirements, developing conventional lots with city street resulted in extraordinary development costs per lot. He stated the interior streets will be build to City engineering standards, but width will be slightly less—27-foot face-to-face instead of 30-foot—which exceeds the code requirements for private streets. There will be no

parking on the streets. Each dwelling unit will have two (2) parking spots in an attached garage, plus an additional two (2) parking spaces on the driveway in front. A Homeowner's Association (HOA) will cover maintenance of the streets, stormwater basin, and private trash pickup.

He explained that the street layout was done to maintain the privacy of the adjacent neighborhood, including the installation of a hammerhead turn-around at Tangle Oaks Road, rather than turning it into a through-street. No cross-connection would be provided. The eastern side of the property is a 50-foot-wide floodway corridor; the developers are aware of the existing flooding in Ridgewood [original]. He explained that the proposed project will improve stormwater and flood conditions on the site. The waterway through eastern edge will be reestablished; this will require removal of vegetative overgrowth, but plan to keep as much screening as feasible. Encroachment of existing homes may result in requiring minor realignment. This will be a bypass route for stormwater coming under Fox Creek Road and feeding the stream at the north edge of the property. On-site stormwater will be addressed through a new detention basin.

He discussed the process and plans for traffic, including joint effort between City and Farnsworth to identify the best way to address turns from Fox Creek Road to make sure the turn lanes don't conflict. He explained the plan for trail access from the northeast part of the subject property to Westwood Park, noting that the fee-in-lieu of parkland would be dedicated to the local park planning area. He reiterated project characteristics, including 1,800 square foot units in the \$300,000 range; they would allow people to downsize without downgrading.

Commissioner Lewis asked for verification that there is only one vehicular access and the access from the northeast is trail. Mr. Finlen responded that only trail was present in northeast; arrows on the provided Concept Plan are related to flood route.

Chair Boyd explained the public hearing testimony process before opening the floor for general testimony.

Jason Karun (9 Tangle Oaks Road) passed out a printed copy of a PowerPoint presentation, attached to these minutes as Exhibit "A".

He provided an image of the Concept Plan overlaid on top of existing aerial imagery, stating it is a dense footprint and expressing concerns about development overlapping creek area on eastern edge of the property where stormwater runs. He provided images of flooded conditions, including creek bed flooding to up to 50 feet, including area where hammerhead is depicted on the Concept Plan. He noted there is an electrical transformer in his front yard and flooding can result in water level halfway up the transformer casing. He reiterated there are serious waterflow issues in the area. He provided images of flooding issues on his neighbor's property. He noted the detention basin on south side of Fox Creek Road.

He recognized the right of the property owners to develop the subject property, expressing concerns about how that development would impact surrounding properties. State he purchased his home due to neighborhood characteristics that have been present for 25 years. He outlined his goals for any proposed development, including: 1) Retention of characteristics of the border between existing and adjacent properties, including natural conditions and privacy, and termination of Tangle Oaks Road as it currently is, 2) Prevention of any worsening of the high flow conditions, while preserving timberline as much as possible, 3) Prioritize the completion of planned local infrastructure to address traffic issues, including the expansion of Fox Creek Road, 4) Design of any proposed development to be in keeping with the characteristics of the surrounding community, in terms of construction quality, appearance, and density, and 5) maximize separation of private property ingress/egress paths from the proposed development.

Finally, he noted that the improvement of Westwood Park has been previously opposed by neighborhood residents who prefer to use it as developed green space.

Todd Smith (24 Pebblebrook Court) expressed concerns about traffic. He explained that Fox Creek Road is 45 MPH, including near school, which is fast and the intersection near Pepper Ridge School is crumbling. In the morning there is significant traffic and numbers of busses that the proposed development will add to. Even in areas posted as 35 MPH people drive 55-60 MPH. Inquired whether Unit 5 schools were consulted on capacity to provide for more children at nearby schools. He noted difficulties with acquiring repairs at the intersection at Pebblebrook and Fox Creek, expressing concerns that more density may degrade the already-poor roads more quickly. He inquired whether a study had been done to make sure the water and sewer infrastructure have appropriate capacity.

Nathan Bassett (6 Tangle Oaks Road) spoke about the major flooding issues in the area. He clarified that there are not turn lanes on Fox Creek except for right turn onto Oakland. He stated that plans for Fox Creek expansion have existed for two or three decades and that part of Fox Creek Road is a disaster. He expressed concerns about interaction between left turn into the proposed development and right turn onto Oakland Ave (going west). He stated that Pepper Ridge school is already beyond capacity and said discussion with Unit 5 is critical.

Michael Nackers (37 Lone Oak Court) stated his understanding that Fox Creek Road widening project is just waiting on funding and he believes that the project should be complete before adding more traffic in the area.

Emilie Karun (9 Tangle Oaks Road) agreed with the previous statements by Jason Karun. She stated that, having four (4) kids, her goal is to project the integrity of the surrounding area, including wildlife, open space, and visual separation.

Keith Marxkors (5 Fiddlestix Court) expressed concerns about the bridge and traffic. He noted new housing on the southside of Fox Creek Road will be adding traffic, the

neighborhood off Beich Road is continuing to grow, and if density continues to increase before the bridge is fixed it will create problems. He speculated that people would begin to clog Oakland Avenue as an alternate route when Fox Creek Road backs up.

Ben Tandy (3 Tangle Oaks Road) inquired about other previous attempts at projects on the site. He noted that the developer wants to use nearby greenspace instead of providing their own park, but the waterway that everyone is talking about as a danger is going to be the pathway, which did not make sense to him. Stated his support in opposition, along with his neighbor's concerns.

Steve Crader (5 Willowbend Court) agreed with the comments in opposition already expressed. He stated there is a lot of traffic that uses Ridge Creek Drive to get to Six Points, instead of going over to Oakland Avenue, and expressed concern that additional houses will result in more people cutting through. He noted that excessive speeds are common and there needs to be a way to slow people down, specially if more houses are added. He articulated concerns over the R-2 development going in on the south side of the street that will be entering/existing onto Fox Creek.

Warren Farrar (2310 Knollbrook Way) discussed existing traffic at Danbury and Fox Creek Road. He classified the intersection as "very dangerous," and stated that until widening and appropriate measures are added to manage traffic there it would be foolish to add another subdivision on Fox Creek. He noted the area surrounds a premier golf course and questioned the wisdom of putting high density living around golf course. Stated they should find a way to use the property that is not as dense.

Denise Smith (13 Willowbend Court) stated support for everything Jason Karun said. She expressed concern for the "drainage ditch" that is going to be built and whether they will dredge out the creek and remove trees that border her backyard.

Chair Boyd left the public hearing open, seeking response to existing inquiries before proceeding with additional testimony.

Chair Boyd asked staff to address the issues raised about traffic and the bridge at Fox Creek Road. Kevin Kothe explained that the project has been in the works for a lot of years. They are currently working on land acquisition and plan to finalize everything and go out to bid next year. Planned construction includes widening the section between Danbury and Beich to four (4) lane, replacing and widening the bridge, and adding the missing piece of Constitution Trail. He compared Fox Creek Road to other 4-lane road sections like Hamilton and Hershey—which also have multiple types of residential and commercial development, as well as direct-access driveways—all of which have much higher traffic counts. He reported a 2022 traffic count on Fox Creek Road of 3,700 vehicles per day, compared to Oakland which gets 15,000 per day, or Hershey which sees well over 10,000; Fox Creek Road 4-lane section can hold a lot of capacity.

Chair Boyd asked staff to address the question related to the capacity of the existing water and sewer infrastructure. Mr. Kothe explained that the sewer and water was sized

for all of the land in the sewershed so capacity is there, and a similar condition for the water. Tap-on fees would pay the City back for the initial investment required to install the pump station and public mains, but no additional public work is required.

Chair Boyd asked staff to address the question related to school capacity. Ms. Pemberton stated she believed the Applicant had spoken directly with Unit 5 school district, but the City provided written notice of the public hearing and received contact from them asking for clarification on the time and location of the meeting, but that contact did not include an expression of concerns or inquiries.

Chair Boyd asked staff to address park related concerns. Ms. Pemberton explained that property being annexed or subdivided is required to consider and comply with parkland dedication, per Ch. 24. She noted that the Parks Department is not seeking additional land at this time and prefers to accept funding to support existing facilities. She pointed out the extended distance that residents would need to walk along streets—including some without sidewalk—to access Westwood Park, and that common sense dictated direct access to the adjacent property. The developer will install a pedestrian walkway that will not exacerbate water issues and the fee-in-lieu they pay will be dedicated to the same parks planning area that maintains the subject park.

Chair Boyd asked the applicant to address drainage and tree interruption. Neil Finlen again thanked the attendees for the images and information. He explained the waterway has been greatly impacted by encroachments and overgrowth that are impeding flow. He stated they will likely have to reestablish all the way from the 48-inch storm sewer coming under Fox Creek Road, but the work should address the ponding that occurs around the electrical transformer. In addition, he stated that the new detention basin will address problems for properties downstream. He explained that addressing the drainage issues and retaining vegetation was going to be a balancing act, to keep as much privacy as possible for both parties, but there are critical water issues that need to be fixed. He provided additional information on plans being discussed for the pedestrian crossing to Westwood Park. He highlighted some of the features of previous projects that ended up being infeasible for the subject property. He noted that the developments on the south side of Fox Creek Road that one speaker expressed concerns about were designed with hammerhead driveway turnarounds so they will not be backing out onto Fox Creek Road.

Vice Chair Beyer asked whether the City had considered lowering the speed limit on Fox Creek Road. Mr. Kothe explained that they have done speed studies on Fox Creek Road; the traffic count he cited previously is from a speed study conducted in 2022. They are working with the police department to monitor and enforce the speed limit and increase presence, but evidence is that the posted speed limits are appropriate at this time.

Vice Chair Beyer asked about the probability of the Fox Creek Road project being budgeted in the near future. Mr. Kothe explained the multi-tier funding structure

supporting the project, as well as a number of other important road improvements in the City, the complicating factors, and the estimated time to completion.

Chair Boyd inquired when the first home could be expected to be complete. Attorney Armstrong stated they would expect sometime in 2026.

Chair Boyd invited any additional speakers to present before the public hearing closed.

Emily Karun inquired about the density of the proposed development. She inquired whether an agricultural use would be possible.

Chair Boyd speculated that the answer would come down to economics but directed the applicant to answer the question. Attorney Armstrong responded that it does come down to economics, based upon the price of the land and to develop it.

Keith Marxkors stated that the only part of Fox Creek Road that is 4-lane is Oakland to Danbury; the rest of it is 2-lane. Little piece.

Lori Farrar (5 Lone Oak Court) stated her understanding that 54 people were notified of the hearing. She asserted that not notifying all of the surrounding communities and providing only two weeks' notice was insufficient. She explained that she has lived in the area for 25 years. She stated that Fox Creek Road outside of Pepper Ridge at Danbury is crumbling. Moving the entrance down is not going to help. She asked that the City promise to fix the roads and bridge like she has been requesting for 25 years. She stated that adding more houses does not make sense; existing residents should be considered. She asserted that the City does not care about Unit 5 since they were not in attendance at the hearing.

Nathan Bassett provided follow up questions. Trying to understand a 48-inch ditch and not taking out the bulk of the existing trees. He noted his preference for the animals and natural aspects of the drainage area and habitat removal that would result from the development of the existing greenspace on the subject property. He explained that no one uses Westwood Park; nearby residents opposed a proposal to put in a playground, which ultimately failed, and the City already mows the park so he questioned what the parkland money would be used to maintain. He asserted that no one uses the park because there is nothing there, and that is the way they would like to keep it. He expressed concern about adding a turn lane. He stated there was not police presence working to address speeding.

Jason Karun noted that he has not heard encouraging information regarding improvement of the traffic and road issues. He requested that City Engineering provide a realistic estimate of when a remedy can be expected to the disastrous condition of the roads.

Kristen Techmanski (38 Pebblebrook Court) stated that she had no idea this hearing was happening until she heard about it in a neighborhood chat room. She expressed

concerns regarding the timeline of increased traffic as compared to road improvements. She noted that Route 66 100-year celebration is coming up, in 2026, which will layer addition traffic down Beich Road on top of existing issues.

Scott Beal (14 Willowbend Court) stated that the existing trees are very important to him. He inquired whether trees on his lot would be removed or affected. He noted his agreement with the opposition. He noted that motorcycles go down his road at 100 MPH.

Jay Smith (13 Willowbend Court) stated disbelief that it is possible to build out the drainage area without removing all of the trees. He inquired whether the Assessor would reevaluate his property to reduce property taxes when the trees are removed, because he already pays too much and one of the selling points of his house will be gone.

Matt Jamison (2305 W Oakland Avenue) discussed existing traffic concerns on Oakland Avenue, including motorcycles and the blind turn near the cemetery. He discussed traffic incidents that have occurred in recent past. Noted he sees people cut through the neighborhood to get from Fox Creek to Six Points. He questioned why Tangle Oaks is not going through. He stated that the duplexes across the street have not sold [*note added: refers to corner of St Ivans and Fox Creek*] and speculated that townhouses would not sell either. He stated he wants more accountability by the City related to the Danbury area; if additional development is going to occur there need to be traffic upgrades.

Chair Boyd directed the Applicant to address the question related to tress and landscaping on private property. Attorney Armstrong stated they are not allowed to touch trees on private property. He explained that some trees may need to be removed to improve drainage but noted that the Applicant is willing to replant additional trees to improve screening. He recognized that it takes a while for trees to mature, but some removal is going to be necessary.

Chair Boyd asked the Applicant to address the concern raised related to reducing the street by three (3) feet. Mr. Finlen responded, explaining that the face-to-face width reduction is only for the interior, private streets, and is still wider than Code requires. The reduction has nothing to do with existing or public roadways.

Chair Boyd asked staff to address notification requirements and the ending of Tangle Oaks Road. Ms. Pemberton explained public notification requirements including publication of notice in the newspaper and by direct mail to property owners within 500 feet of the subject property. She noted that there are not requirements for notification of the school district or County at the Planning Commission level, but they do so anyway, as best practice. Unit 5 reached out to clarify the time and location of the hearing and she responded, so there is evidence of awareness of the proposal at the school district level. She advised that public hearings before the Zoning Board of Appeals have the same notice requirements.

Ms. Pemberton explained how the current dead-end condition of Tangle Oaks Road came to be, and that staff had encouraged the Applicant to retain the dead-end condition to protect the character of the existing neighborhood. She noted that testimony supported that desire from residents. Practical reasons related to cost and engineering exist also, but the choice was primarily related to protecting the existing rights and the character of the road and neighborhood.

Vice Chair Beyer requested that staff clarify the Commission's purview on the project, as reviewing the annexation and zoning, but not the site plan. Ms. Pemberton explained that if there is a direct relationship between the standards of consideration for an item, they are responsible for reviewing and something represented on the Concept Plan, then it may be discussed and associated via wider external impacts of the Concept Plan. However, the interior development of the site is not the purview of the Planning Commission, and the Zoning Board of Appeals will be reviewing the Special Use Permit.

Chair Boyd closed the public hearing.

Commissioner Lewis stated he lives in Fox Creek, a few blocks from the proposed development, and wanted to clarify whether that was a conflict of interest. George Boyle, Assistant Corporation Counsel stated he doesn't see a clear conflict of interest. He inquired whether Commissioner Lewis was connected in any financial way to the development, or any competing development. Commissioner Lewis responded in the negative. Mr. Boyle asked whether he thought his proximity precludes him from voting fairly. Commissioner Lewis answered in the negative.

Chair Boyd asked whether private streets only need sidewalk on one side. Ms. Pemberton stated that private streets have different standards, and many have sidewalk only on one side. She mentioned that some private streets have combination sidewalk-rolled curb, or no sidewalk, which is not preferred so the Agreement specifies a sidewalk shall be required on at least one side of all private roads.

Chair Boyd stated that this property does not match his definition of "infill" but he does view it as efficient expansion since all the infrastructure is in place. He recognized the level of neighborhood opposition to the proposal, but also recognized the desperate need for housing in the community. He noted that the type of housing proposed is an efficient use of land and improvement of tax base. He requested that staff reiterate, for the public, any additional opportunities to speak on the project.

Ms. Pemberton explained that the Zoning Board of Appeals will hear the Special Use Permit on October 16, 2024. An additional public hearing on the Annexation Agreement will be held before City Council; that is expected to occur on October 28, 2024.

Chair Boyd stated the key is whether the City is making optimal use of the infrastructure that is in place, and whether it affects the public as related to the standards for consideration. He asked whether staff had a recommendation on the order in which they take the motions.

Mr. Boyle recommended that the zoning be considered first, but either way may be reasonable. Ms. Pemberton echoed the preference for addressing the zoning item first.

Vice Chair Beyer stated that evaluating the case is challenging for her. She has heard a lot of traffic concerns which are real, but the expert City Engineer has provided data and an evaluation that this development will not result in an unreasonable burden.

Commissioner Beyer made a motion, seconded by Commissioner Peradotti, to Motion to establish findings of fact that the request for approval of the proposed Zoning Map Amendment to the R-2 (Mixed Residence) District is in the public interest and not solely for the benefit of the Applicant or Property Owner and to recommend approval of the request.

Chair Boyd directed the clerk to call roll:

AYES: Boyd; Amour; Peradotti; Beyer

NAYS: Lewis; Muehleck; Cullen

Motion passed.

Commissioner Beyer made a motion, seconded by Commissioner Lewis, to Motion to establish findings of fact that the request for approval of the proposed Annexation Agreement is in the public interest and not solely for the benefit of the Applicant or Property Owner and to recommend approval of the request.

Chair Boyd directed the clerk to call roll:

AYES: Boyd; Lewis; Amour; Muehleck; Peradotti; Beyer; Cullen

Motion passed.

New Business

None

Adjournment

Commissioner Beyer made a motion, seconded by Commissioner Cullen, to adjourn the meeting.

Chair Boyd directed the clerk to call roll:

AYES: Boyd; Lewis; Amour; Muehleck; Peradotti; Beyer; Cullen

Motion carried (viva voce).

The Meeting Adjourned at 5:41 PM

CITY OF BLOOMINGTON



Justin Boyd, Chair



Alissa Pemberton, Staff Liaison