

## ANGOLA PLAN COMMISSION MINUTES OF THE OCTOBER 10, 2006 MEETING

President Dave Olson called the meeting to order.

Secretary Julie Johns-Cole called the roll. Other members present included Suzy Adams, Kathy Armstrong, Eugene Burd, Veryl Carpenter, Jeff Martin, Dean Twitchell, Ron Walter and Anne Watkins. Charles Sheets was absent. One position remains vacant.

Also in attendance were: Deburl and Dorris Smith, Jim Hale, Craig Ralston, Vern LaFountain, Engineering Assistant Jim Myers, City Attorney Kim Shoup, Darrin Good, Robert Berger, Janet Berger and Marla Gill.

Since the September 12, 2006 minutes were just handed out, member Burd made a motion to postpone voting on the minutes until a later date. Member Twitchell seconded the motion. The motion was approved 9-0.

Chairman Olson reviews **Case 8-1-06**. L & L General Contractors are requesting primary approval of Magnolia Park, a 72 lot subdivision consisting of 72 duplexes. The dwelling units are attached, yet are typically individually owned. Johns-Cole adds that this case was tabled at the September 12, 2006 Plan Commission meeting due to lack of required information and County Drainage Board approval. However, drainage approval was given on September 18, 2006. The traffic counts are completed and have been presented to the Plan Commission members. No revisions to the plat have been received by the City Planner.

Darrin Good, engineer for Magnolia Park presents additional information and illustrations. Mr. Good reviews the plat, the completed traffic study and plans for Jim Hale's property. The traffic study basically concluded that a passing blister must be built at the intersection of Azalea and Harcourt Road, and near Jim Hale's property, which is north of the eastern half of Magnolia Park. The level of service at the intersection of Harcourt Road and SR 827 is quite high and Mr. Good believes that the new subdivision will not decrease the level of service. The state however in the future could request that a traffic study be conducted to look at the intersection of Harcourt Road and SR 827 to see if a traffic light is warranted. Mr. Good also believes that will not occur. The traffic study has yet to be presented to the Indiana Department of Transportation.

Mr. Good presents illustrations of the development connecting into Jim Hale's property which the developer plans to do in the future. It is a real rough conceptual drawing, and wetland delineation will need to be taken into account.

Mr. Good also reviews sewer and water lines. Mr. Good has been working with city representatives to finalize some of the sewer plans. Mr. Good specifically addresses storm water and mentions the rolling topography of the site. The pipe under the railroad was found and cleared out. Wetlands have three pipes, lead under Harcourt Road and drain into Steve Garman's property at 202 East Harcourt Road. Agreements still need to be made in regards to drainage with Garman's property.

Mr. Good also stated that by disturbing more than 1/10 of an acre of wetland, construction plans will be submitted to the Army Corp. of Engineers and a construction permit must be sought.

Street diagrams have been submitted to the city, yet a few more revisions will need to be made. A storm water plan will also need to be submitted for MS4 requirements. Plans will also be submitted to the county Soil & Water Conservation District. Mr. Good continues on with some of the preliminary plans.

On the future section, water will need to be brought up. A community pond will hold discharge that will head to the north.

Chairman Olson has a few questions in regards to the e-mail that was received just a few hours before the meeting. The e-mail addresses Phase 1A and 1B. Vern LaFountain of L & L General Contractors responded that 1A stopping at lots 42 and 46. Phase 1A will have 44 lots and is located on the east side of the railroad tracks. Phase 1B is on the west side of the railroad tracks. Phase 1B will start when 50% of Phase II building permits have been issued. Phase II will start when 50% of Phase 1A building permits have been issued.

Member Burd pointed out that Phase II has not even been approved yet and wanted to know what warranted the change. Member Burd said that this was not part of the initial proposal and is now being presented as a major part of the entire project. Member Burd feels that this is a problem since Mr. LaFountain has varied from his original intentions.

Member Twitchell pointed out that other subdivisions in the city have phases so this is not uncommon.

Member Walter needed clarification of the drawing that illustrates SR 827 and Jim Hale's property. Member Walter also wanted to know if an agreement has been made with Jim Hale. Mr. LaFountain responded that a signed purchase agreement has been made with Mr. Hale, with a closing date of no later than January 15<sup>th</sup>, 2007.

Member Martin inquires about the zoning of the property. Member Martin is concerned with the large amount of uncertainties and not enough guarantees from the developer. Member Martin points out that the Plan Commission should be focusing on what is being presented. The proposed future phase is still contingent on rezoning, topographical maps, surveys, and wetland studies.

Mr. Good agrees that it would be very desirable to have an additional access on the west side of the development. Mr. Good stated that the city suggested the developers come up with some sort of an agreement and present it to the Plan Commission. This agreement would include that the developers would begin building an access onto SR 827 once 50% of the building permits are issued. Member Martin understands that, but says there are a lot of bridges to be crossed before that can happen. Mr. Good replies that if the second access cannot be completed, only 50% of the lots on the east side will be developed, creating a much less dense neighborhood.

Mr. Good also offers an alternative that a right of way strip can be made with lots 47-51, and for some reason the northern access onto SR 827 falls through, an access can be made further south.

Member Martin wants to know how the city can protect itself and get a guarantee that this second entrance will occur.

City Attorney Kim Shoup stepped in to make a few general observations from a legal standpoint. Primary approval is granted by the Plan Commission based on plans and promises of layouts, streets, sewer, etc. The Plan Commission as well as the city in general has an interest in seeing that the infrastructure is laid out as represented. The legislature has provided the developer with incentive to do what it represents by not allowing any lots to be sold or building permits to be issued until streets and infrastructure is developed as presented and secondary approval is granted. Attorney Shoup states that what the developer is suggesting is getting away from what the legislature provides. It can be done, but it requires that the Plan Commission give up some leverage and statutory control to require that the infrastructure be completed. The developer may sell a few lots, but then lose interest or have financial difficulties, and not follow through with a second entrance. The question was brought up earlier that how does the Plan Commission ensure that certain promises are carried out. The Plan Commission has the authority to make changes to what is suggested in regards to roads. If the Plan Commission believes that a second access to SR 827 is needed, and it is reasonable, it can be required.

Member Martin reiterates that this decision cannot be made until an actual plat is presented.

Mr. LaFountain said the Mr. Hale's property came up as a secondary idea as Phase I was being developed. When Mr. LaFountain was considering finances, extending into Mr. Hale's property before the west side seemed like the obvious choice. If that is not acceptable, Mr. LaFountain agreed to designate a right of way in the area of lots 47-51 in case the Hale property doesn't materialize.

Attorney Shoup agrees that the offer may be feasible.

Mr. Good wants to know how many units would warrant a second access, because that could be reviewed.

Member Twitchell is not aware of a "magic number" for lots that would require a second access. Member Twitchell explains the logic of having more than one access. Member Twitchell feels that public safety is a being factor behind the desire for two accesses.

Mr. LaFountain is at the Plan Commission to get primary approval. If it takes revisions to do so, he is willing to make the revisions.

Chairman Olson questioned the methodology of the traffic study. Chairman Olson wanted to know if the traffic study took into account the proposed subdivision and if so, was it a guess on the number of residents coming and going.

Mr. Good stated that guessing is a great way to term it, and yes it is an estimate. It is based on statistical data of watching people's movement and how they come and go. Mr. Good and Chairman Olson also discuss the level of service at the intersection of SR 827 and Harcourt Road. Mr. Good again ascertains that the level of service will still be adequate to serve the additional population from Magnolia Park.

Member Walter questions the visibility of placing an access south of the Jim Hale property near lots 47-51. Mr. Good answers that Hale's property would provide better access because it sits at a higher elevation.

Member Carpenter states that nothing ever seems to happen with a dead-end street and Carpenter is not fond of cul-de-sacs. Member Carpenter wants more of a guarantee that the second access will be built. This guarantee can come in the form of platting that access.

Mr. Good responds by saying that they are currently asking for primary plat approval for only what is being presented. Mr. Good is also offering to create a right-of-way in the area of lots 47-51 to allow for a second access in the event that the Hale property acquisition falls through.

Mr. LaFountain discusses the timeframe for the project, and mentioned that time is critical. Financing and the closing of the 52.85 parcel relies on the primary plat being approved. Mr. LaFountain intends to invest \$20 million into this project. The idea of expanding into Mr. Hale's property was a second idea. Mr. LaFountain agrees that it is a good idea, but the company needs to get started somewhere. Mr. LaFountain wanted to make it clear that he does not quit the projects he starts.

Johns-Cole wanted to clarify lots 42 and 46 with Mr. Good. Johns-Cole verified that lots 42 and 46 would in fact front onto Magnolia Boulevard. However, a drive would extend back between the two lots as far as the lots were long. A snow plow may be able to push snow back into the drive.

Chairman Olson wanted to know the difficulties, financial or otherwise in constructing an access onto SR 827 through lots 47-51. Mr. Good responds that topographies would need to be submitted to the state in order to get a state driveway cut permit. The state would need to look at the area 500 feet both north and south. Chairman Olson discovers that these topographic maps have not been done for Hale's property either, but Hale does have an existing commercial driveway. Olson states that safety dictates an access onto SR 827.

Member Walter wanted to know if a bond could be sought for the second access so the City of Angola could build a road if Hale's property doesn't go through and the access near lots 47-51 is not built.

Mr. LaFountain wants to clarify that the Plan Commission wants him to bond an access onto SR 827. Mr. LaFountain agrees that a bond idea may work out, but he would proceed with much hesitance.

Again, Attorney Shoup steps in to remind the Plan Commission of their authority and where it lies. The Plan Commission approves the plans and the plans must be carried out before any lots are sold or any home is developed. Withholding lot sales and building permits is a strong incentive for the plans to be completed. If the Plan Commission wants an access to SR 827, it must have a reasonable basis to require it. The law however does allow certain requests and requirements of that nature. If the developers agree to do it and the plat is approved as such, it must be completed or lots will not be sold. Bonding is not typically anticipated in terms of primary plat approval.

Chairman Olson asks for Plan Commission members to comment.

Member Watkins does not see a problem with putting an access onto SR 827 now in the area of lots 47-51.

Member Olson reiterates that safety is a huge issue, and a second access is warranted.

Member Armstrong feels that the Plan Commission is being put into a position of "let's make a deal." From the beginning density has been a concern. If the Plan Commission approves the plat as presented, then the Plan Commission would be more inclined to approve the second phase because of the

strong desire to get the second access completed. Member Armstrong agrees that a second access needs to be added and Member Armstrong would like to see that road now.

Chairman Olson allows Mr. Hale to add a comment. Mr. Hale proposes to the Plan Commission that he now allow L & L General Contractors to run the road through to his commercial drive so they can get approval.

Member Martin stated that it could not happen, that it would have to be platted.

Mr. Good responded that a strip of right-of-way could be granted on Hale's property and a road be put in. The problem with that however is that the developers would be locking themselves into that layout and it is still unknown where sewer and water would go. What Mr. Good would like to suggest is that they lay stone and binder, but not surface, knowing that the layout may change.

Chairman Olson commented that it would not be a road, but merely a trail.

Mr. Good responds to density being an issue. Currently being presented is 44 lots with 88 units plus commercial lots. The developers are presenting two different options. One being the plat being presented, keeping in mind the purchase agreement that is in effect with Jim Hale. If that does not go through the second proposal would be to continue the access through lots 47-51. Having multiple entrances on SR 827 would not be in the best interest of the developer or the best interest of the City, especially when safety is at the top of the Plan Commission's priorities.

Member Martin commented that the more entrances that are created, the more likely the speed limit would be decreased.

Mr. LaFountain commented that if Glendarin and Northcrest only have one access and equal to or greater than the number of housing, why is L & L being subjected to two entrances.

Member Martin responded because the layout of their land allows them the two entrances.

Mr. LaFountain seems confused by this request as he believes that traffic has never been an issue before. To his knowledge, the idea of a second entrance onto SR 827 was only first brought up at the last Plan Commission meeting on September 12, 2006.

Johns-Cole responds that in her first staff report written regarding this primary plat approval comments were made in specific regard for a desire for a second access onto SR 827.

The hearing is open to the public.

Engineering Assistant Jim Myers made a comment that single family homes could be built within the subdivision. Mr. Myers confers with the City Planner and Johns-Cole concurs that the property would not have to be rezone, single family homes could be built in an R-2 zone. Mr. Myers also discusses the desire to establish an easement with the developers to help with the bike trail that the City is now involved.

Mr. Deburl Smith is concerned with the water and the drainage. Mr. Smith maintains that if drainage is designed correctly it will work. The Smiths have 7 retention ponds within a 1-mile radius of their home, and only about 2 of them are maintained. Somewhere in the past the tile was damaged and things have not been the same since.

Chairman Olson asks the developers to respond to Mr. Smith's concerns. Mr. Good needs clarification of the Smith's location. The developer's intent is to move the water away from the Smith's house.

No additional comments were heard and the public hearing was closed.

Member Watkins likes the idea of a few single family homes and it would enhance the subdivision.

Member Carpenter and Member Walter both agree that if a road is built on SR 827 on Hale's property, he will agree to the plat.

Member Burd has a problem with the commercial zoning. Member Burd believes the entire project should be R-2 and the B-3 does not belong there. It is spot zoning.

Member Martin likes Members Carpenter and Walter's idea, but again, there are no guarantees. Member Martin is leaning towards approving the plat as long as a provision is made for the additional access.

Member Armstrong does not have a strong idea of where the SR 827 access should be, but is quite confident that a second access must be built and must be paved, not gravel.

Attorney Shoup recommends that whoever makes a motion make a substantive motion with a checklist of the basis of the motion that would serve as a finding of fact for the motion.

Member Twitchell would like the Plan Commission to entertain only approving section 1B of the primary plat and wait for the land acquisition and the engineering to be completed before coming back to the Plan Commission. Member Twitchell makes a motion to approve Section 1B of the plat, meaning the development west of the tracks and later resubmit for the east side of the tracks when the Hale acquisition is complete and addressing the second access. Evidently the west side of the development is not an issue, so why not let the developers begin there.

Member Watkins asked Member Twitchell at what point would the Plan Commission consider the west side of the development for primary approval. Member Twitchell responded that when the access is completed along with the proper engineering plans, topographic maps, Hale's property rezoned, etc.

Attorney Shoup cautions the Plan Commission to approving only half of the plat unless the record clearly shows that the petitioner agrees to orally amend his request to only include half of the plat, specifically the west side.

Mr. LaFountain would like to have the option of choosing exactly which access onto SR 827 would be built. Only approving the west side of the development is acceptable to L & L General Contractors, contingent on the option to build the second access at the Magnolia Court extension or through Jim Hale's property.

Member Martin seconds the motion.

Johns-Cole repeats the motion. The motion was to approve only the west side of the development at this time until a second access can be secured onto SR 827, whether it be through the Magnolia Court extension or through Jim Hale's property.

Attorney Shoup would like the petitioner to endorse the motion. Mr. LaFountain endorsed the motion made by Member Twitchell and seconded by Member Martin.

Mr. Good suggests that for clarification, the west side now be referred to as Section I, lots 1-28.

Johns-Cole would like to point out that the commercial development in the east side of the plat could commence at this time. It is zoned properly and it does not require primary plat approval. It is shown on the plat as a matter of convenience rather than as a requirement of the ordinance.

Members vote on the motion. The motion is approved 8-0. Member Burd abstains from voting.

Chairman Olson recommends to the petitioner to be more prepared in the future, specifically delivering pertinent documents in advance to a scheduled meeting.

Mr. LaFountain finished the meeting by thanking everyone at the meeting for all of the work they have done together and promised to have things done on time and will be more organized for the next time they present a request to the Plan Commission.

Being no further business to come before the Plan Commission the meeting was adjourned.

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David Olson, President

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Julie Johns-Cole, Secretary