

DEVELOPMENTAL CONTROLS COMMITTEE

August 3, 2010

There was a meeting of the **Developmental Controls Committee** of the Lima-Allen County Regional Planning Commission held on **Tuesday, August 3, 2010 at 3:00 p.m.** in the Conference Room of the Commission office located at 130 West North Street, Lima, Ohio.

The agenda was as follows:

1. Roll Call
2. Approval of Agenda
3. Approval of DCC Minutes – April 27, 2010
4. Update: Bond Status
5. Update: USGS Floodplain Study
6. Other
7. Adjournment

A quorum being present, Bruce Plumb brought the meeting to order and proceeded with the agenda.

1. **ROLL CALL**

Mr. Paul Basinger	American Township
Mr. John MacDonell	City of Lima
Mr. Bruce Plumb	City of Lima
Mr. Walter Rysz	Richland Township
Mr. Jesse Sadiua	City of Lima
Mr. Troy Strayer	Village of Elida

GUESTS

Mr. Douglass Degen	Allen County Engineer's Office
Mr. Ron Meyer	Allen County Engineer's Office

STAFF

Ms. Lisa Steffen	Lima-Allen County Regional Planning Commission
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2. **APPROVAL OF AGENDA**

Motion 25 (8-3-10) DCC

John MacDonell made the motion that the agenda be approved. Seconded by Troy Strayer; motion carried.

3. **APPROVAL OF DCC MINUTES – April 27, 2010**

Motion 26 (8-3-10) DCC

Jesse Sadiua made the motion that the DCC minutes of April 27, 2010 be approved. Seconded by Paul Basinger; motion carried.

4. **UPDATE: BOND STATUS**

Lisa Steffen reported that there are four bonds coming due, three during the remainder of 2010 and one in January 2011. Staff has sent letters to each of the developers notifying them of the upcoming expiration of the posted bonds. Lisa Steffen reported that the

4. UPDATE: BOND STATUS (Continued)

Committee has the responsibility to: (1) approve staff recommendations as submitted; (2) approve staff recommendations with conditions; (3) reject the staff recommendations; or, (4) at the pleasure of the Committee, table a decision until the next regularly scheduled meeting of the Developmental Controls Committee to allow certain issues to be resolved.

Lisa Steffen reported that there is a Performance Bond for Woodberry Creek Estates that will expire September 16, 2010. The initial performance bond was posted in 2007 and bonds were subsequently collapsed in 2009 to reflect a phasing of requisite stormwater infrastructure. Staff contends that local stormwater management regulations require and OEPA regulations mandate completion of identified infrastructure improvements. Lisa Steffen reported that outstanding issues for Woodberry Creek Estates include completion and seeding of the detention pond; completing the grading and seeding of the main storm outlet; maintenance of erosion control measures; and, installation of monument boxes. Lisa Steffen reported that the final plat was conditionally approved based on these improvements being completed within 12 months. Staff contends that the site has not received the attention required to meet minimal compliance and requests the authority to invoke the bond should said improvements not be completed, accepted and approved prior to bond expiration. Ron Meyer reported that the Allen County Engineer's Office was told that the developer intended to work on some of the issues this week. However, now is not the best time to grow grass and he is unsure if they will be able to complete these tasks by September 16. Ron Meyer commented that it could be an option to require the developer to post a bond for the seeding that does not get completed by September 16. This decision is up to the Committee. John MacDonell questioned the location of the subdivision. Ron Meyer responded that it is located near Poling & Wapak.

Motion 27 (8-3-10) DCC

John MacDonell made the motion to invoke the Performance Bond for the Woodberry Creek Estates Subdivision if the work is not completed by September 16, 2010 and should the Performance Bond not contain sufficient funds to complete the necessary improvements, a lien shall be placed on the properties that have not been purchased. Seconded by Troy Strayer; motion carried.

Lisa Steffen reported that there is a Sidewalk Bond for American Village that will expire October 5, 2010. The initial sidewalk bond was posted in 2005. Lisa Steffen reported that of the 13 platted residential lots, only 5 remain undeveloped requiring sidewalks. Staff contends that pedestrian connectivity requires the installation of sidewalks and requests the authority to invoke the bond should said improvements not be completed, accepted and approved prior to bond expiration. John MacDonell questioned if the bond was sufficient to pay for the sidewalks that need installed. Ron Meyer responded that when the bond was posted the price of concrete was higher than it is now and the bond was posted to cover sidewalks on all of the lots and there are only 5 lots needing sidewalks. Therefore, the bond should be sufficient to cover the costs of the sidewalks. Jesse Sadiua questioned what would happen if the posted bond was invoked and did not have sufficient funds to construct the remaining sidewalks. Ron Meyer commented that it may be possible to place a lien on the property.

Motion 28 (8-3-10) DCC

Paul Basinger made the motion to invoke the Sidewalk Bond for the American Village Subdivision if the work is not completed by October 5, 2010 and should the Sidewalk Bond not contain sufficient funds to complete the necessary improvements, a lien shall be placed on the properties that do not have sidewalks. Seconded by Jesse Sadiua; motion carried.

4. UPDATE: BOND STATUS (Continued)

Lisa Steffen reported that there is a Sidewalk Bond for the Jeff Ciminillo Subdivision that will expire November 23, 2010. The initial sidewalk bond was posted in 2006 for 1-year only and sidewalk bonds were posted annually thereafter. Lisa Steffen reported that the development site later split and was sold to Mike Alexander. Lisa Steffen reported that previous conversations with Mr. Alexander expressed the Agency's willingness to extend remaining construction to 2011. However, when a new bond was posted it had an expiration date of 2010. Lisa Steffen reported that only 2 residential lots remain undeveloped requiring sidewalks. Lisa Steffen reported that staff has received a response from Mr. Alexander stating that he is beginning the last phase of the subdivision and he will complete all of the remaining walks this year. Staff contends that pedestrian connectivity requires the installation of sidewalks and requests the authority to invoke the bond should said improvements not be completed, accepted and approved prior to bond expiration. Lisa Steffen reported that staff would support the posting of a 1-year bond and allowing a full 5-year period for sidewalk completion, but notes the inefficiency and unlikely posting of a bond for such a small amount. Jesse Sadiua questioned if Regional Planning has an issue accepting the word of the developer stating that the work is going to be completed. Lisa Steffen responded that staff does believe the work will get completed but still would like a motion giving authority to invoke the bond if necessary. Bruce Plumb commented that the developer may not be able to get a new bond due to the small amount. John MacDonell commented that it may also be possible for Mr. Alexander to provide some other form of guarantee that the work will be completed, such as a certificate of deposit or surety of some form. Walter Rysz questioned if that was allowed. Jesse Sadiua responded that he believed it was allowed.

Motion 29 (8-3-10) DCC

Jesse Sadiua made the motion to invoke the Sidewalk Bond for the Jeff Ciminillo Subdivision if the work is not completed by November 23, 2010, or provide a form of surety or guarantee that the work will be completed. Seconded by John MacDonell; motion carried.

Lisa Steffen reported that there is a Sidewalk Bond for the Camden Ridge Subdivision that will expire January 12, 2011. The initial sidewalk bond was posted in 2006. Lisa Steffen reported that as the months of November, December and January are not conducive to normal sidewalk construction, the bond is being presented for review now, in late summer. Staff contends that the development has witnessed nominal development with only 5 of the proposed 23 lots developed; all of the developed lots have sidewalks. Lisa Steffen reported that staff contends that little connectivity exists and that allowing the posting of the bond for an additional extended period not to exceed 3 years would allow the development to proceed while not imposing a hardship on the developer or existing residents. Staff strongly recommends however that a replacement bond must be filed and accepted at least 3 weeks prior to the expiration of the existing bond in order to ensure that the developer posts the required bond in a timely manner and guarantee that the residents will receive a full complement of amenities as promised by the developer, required by the County Subdivision Regulations, and as previously approved by the Board. Ron Meyer reported that a new engineer's estimate will also have to be submitted.

Motion 30 (8-3-10) DCC

Jesse Sadiua made the motion to allow the developer for Camden Ridge Estates to extend the Sidewalk Bond, which expires January 12, 2011, for 3 years with the stipulation that the new bond be filed and accepted at least 3 weeks prior to the expiration of the existing bond and a new engineer's estimate must be submitted. Seconded by Paul Basinger; motion carried.

4. UPDATE: BOND STATUS (Continued)

Lisa Steffen reported that each of the developments are unique in terms of their history and location; however, all were developed pursuant to the Allen County Subdivision Regulations as amended. Staff contends that the posting of the bond is expensive and that forfeiture of the bond affects local developers and local banks or other agents guaranteeing same. However, said bonds are posted as guarantees that said developments will meet the minimum expectation required by the Subdivision Regulations. Lisa Steffen reported that staff is seeking guidance towards resolving certain outstanding issues related to the calling of the bonds: (1) significant progress achieved albeit without full/complete satisfaction – should we call the bond or would another avenue provide relief without undue economic hardship (e.g. place a lien on the property); (2) the Regional Planning Commission establishes/manages the administrative process, who will manage completion of the remaining project(s) once the bonds are called – the Allen County Engineer as engineer for the respective Township or the Township; and, (3) how will the Agency address outstanding bonds should a developer and/or purveyor of the bond file for bankruptcy. Lisa Steffen invited Committee members to discuss these issues. John MacDonell questioned if the Township's are able to oversee this type of thing or if they would need the help of the County Engineer's Office. Walter Rysz commented that he did not know of anyone in Richland Township that could handle this task. Troy Strayer commented that he is concerned with filing a lien because it could put the Townships/Villages in jeopardy and hold them somewhat responsible. Walter Rysz questioned what the lien was placed on if all of the lots have been sold. Bruce Plumb responded that that would be a different circumstance. Douglass Degen commented that if all of the lots are sold everything should already be in place, unless the developer went bankrupt. Bruce Plumb commented that it would be helpful to have the opinion of a lawyer. Jesse Sadiua commented that it would be beneficial to have a lawyer present and discuss these issues to see what is allowed. Douglass Degen commented that he would also have Jim Link present because he would be familiar with liens. Ron Meyer questioned if Regional Planning can place a lien on taxes. Bruce Plumb commented that Regional Planning acts on behalf of the County. Lisa Steffen reported that she would pass the Committee's concerns on to staff and see if an item could be placed on a future agenda to discuss some of these issues.

5. UPDATE: USGS FLOODPLAIN STUDY

Douglass Degen reported that he, Thom Mazur, Ron Meyer and Mike Howbert had met last week to look at the new FEMA floodplain maps. Douglass Degen commented that he has discussed the maps with the Committee previously, but thought it would be advantageous to update the Committee on how the maps are starting to look. Douglass Degen presented Committee members with floodplain maps and explained that the areas outlined in yellow are the existing floodplains and the areas outlined in red are the new model overlays. Douglass Degen proceeded to explain the various maps in relation to their location to the Committee. Douglass Degen reported that all of the data so far, except for Little Riley Creek which is still in the modeling phase, has been submitted to a consulting firm called CDM out of Chicago. CDM is the engineering firm that is working for FEMA. Douglass Degen reported that CDM is now working on the draft maps. Douglass Degen reported that the new model follows the existing contours pretty nicely. There may be some individuals that may now need to purchase flood insurance and there may be some that no longer need to carry it. Douglass Degen reported that the new model provides more of a refinement of the floodplain. Douglass Degen reported that the next step is to talk to people that have dealt with drainage in the past to ask their opinion. Jesse Sadiua questioned if the new contours were developed based on more precise data. Douglass Degen responded that the new contours were definitely based on more precise data. Also, it was never very clear where FEMA previously obtained their data to delineate floodplains. Douglass Degen commented

5. **UPDATE: USGS FLOODPLAIN STUDY** (Continued)

that there are still a few areas that need to be looked at further and analyzed to ensure they are accurate. Douglass Degen reported that Kohli & Kaliher is actually looking at a few areas right now to ensure that the mapping process is accurate. Douglass Degen reported that FEMA is going to conduct a public hearing regarding the new mapping. Douglass Degen reported that he and other individuals are looking over the maps to make sure they make sense. Bruce Plumb commented that it would be a good idea to have a meeting to discuss the floodplain maps once they are all completed. Walter Rysz questioned if there would be a uniform model for the entire County once the process is completed. Douglass Degen responded that the ultimate result of this process is up to date FEMA floodplain maps. Walter Rysz questioned how accurate the final maps would be based on the fact that different parties worked on different areas. Douglass Degen responded that they will all be equally good in the end because each had to use the same modeling techniques. Douglass Degen reported that the draft maps were supposed to be completed by August 12, 2009. However, the draft maps have not yet been received. Douglass Degen reported that the maps have been promised to be completed any time now. Once the draft maps are received, we have 60 days to review the maps.

6. **OTHER**

None.

7. **ADJOURNMENT**

Motion 31 (8-3-10) DCC

John MacDonell made the motion that the meeting be adjourned. Seconded by Paul Basinger; motion carried.