



City of Ann Arbor
Formal Minutes - Final
Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
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Tuesday, December 16, 2014

7:00 PM Washtenaw County Building, 220 N. Main St., board room

10-a 14-1763

Nixon Farm North, 3381 Nixon Road for City Council Approval - A proposal including several related petitions necessary to develop a 68-acre site at the northwest corner of Nixon and Dhu Varren Roads for multiple-family residential use with 208 attached dwelling units in 51 buildings, with community clubhouse and pool, storm water management and park donation. Petitions include Zoning (to R4A Multiple-Family Dwelling), Site Plan and Natural Features Open Space Activity authorization, Landscape Ordinance modification request and Wetland Use permit. Ward 1. Staff Recommendation: Approval

DiLeo presented the staff report.

PUBLIC HEARING:

Ward Bissell, 5 Northwick Court, Ann Arbor, spoke about the building record of the Toll Brothers stating that the internet is full of records showing their history of violations of building codes as well as the Clean Water Act. He said he realizes that the City can't pick and chose which developers come into Ann Arbor but asked if the City's inspectors will be sufficient in number and have the time to monitor Toll Brothers with the intense scrutiny that the checkered history of Toll Brothers demands. He said he hopes so, otherwise the City will end up with 470 problems on their hands.

Maris Vinovskis, 13 Westbury Court, Ann Arbor, said he has lived there for 35 years and expressed that the traffic issue that is before the Commission is a serious problem and is not something new, and with the new developments we have an accident waiting to happen at Nixon Road. He said because of the busses that he rides daily to his job at the University of Michigan where he teaches, it is very difficult for him to navigate crossing the street because the traffic is going very fast and not following the speed limit and it is absolutely dark, He said with the snow coming and the ice and if he were ever to fall a car would not be able to stop. He said even without adding any more cars, it is impossible for anyone to cross Westbury, so why isn't the City doing anything about it. He said he doesn't believe that the issue is ready to be discussed because it hasn't been reviewed and discussed in detail. He said most of

the residents are in favor of some form of development but you don't have to develop it to this degree. He said you have heard what the people said about the consultant not listening to the neighbors and their input when the Master Plan was drawn up for this area, and that lots has changed since the plan was written and you have heard from us and what we think. He said for the first time he saw Barclay Place and was shocked that somebody allowed something like that to be built in this City, adding that it was embarrassing to see as one drives around the development. He said he hopes that it will not be repeated in this scenario.

David Reuss, 16 Westbury Court, Ann Arbor, said his main concern is with moving the traffic study ahead for both the Toll Brothers as well as the residents and that it be done before any ground is broken. He said with the narrow setbacks that are currently there and the narrow road, they have to walk down the bike path and when the double-bottom trucks or busses come by they are very, very close to pedestrians and bikes. He said when they can, they move over into the other lane, but that is not always possible. He asked where is the property going to come from since the setbacks are narrow, and with another lane coming in where is it going to go. He said the traffic on the western side of the development the sidewalks can only go down to available sidewalk south of the site, and if you are going faster than 30 miles per hour you can't see them to stop in time. He said the traffic issue needs to be addressed and corrected before ground is broken and more homes are added to the Nixon corridor. He hoped that the traffic study could move ahead.

Mary Vinovskis, 13 Westbury Court, Ann Arbor, read from a prepared statement, calling upon the Planning Commission to re-evaluate the Nixon projects North and South. She said to rely on an outdated Master Plan removed the current residents' concerns and wish for real consideration. She said it was the Commission's job to represent them now in the present and not from a flawed view from the past and what might have been fine in the past doesn't represent reality today. She said the traffic with current density is horrendous and with population growth will only make it worse. She said the City's own traffic study shows that the streets are at full capacity. She said the architecture of the proposed project should resonate the physical appearance of the existing structure of the area. She said the very tall stacked design for the south Nixon section is completely inappropriate and the brownstone might fit in downtown Ann Arbor but doesn't fit in suburbia. She said a mandatory visit to Barclay Park should be required by each Commissioner before voting on these projects and you would quickly see how unsuitable 3-4 story structures are and how they loom over walkways and drives and create a

crowded and cramped feeling to the area. She said reconciling the South Nixon project with the area should be the priority, adding that she appreciates that the structures backing up to the street have been lowered and the rest of the structures should be a re-design to reduce their heights so they can blend into the existing neighborhood. She said the roads need to be widened to help with the traffic issues.

Jeff Brainard, 29665 William K. Smith Drive, Suite B, New Hudson, MI, representative for Toll Brothers, thanked everyone in the Planning Department for all the countless hours they have spent on the project. He said they are glad to be in the market in Ann Arbor as it is a great place to live, with great schools and the universities and world class healthcare, and most of all it has a sense of community. He said both he and Vice President Jason Minock live in Ann Arbor, and chose to raise their families here and most of their senior staff are products of the University of Michigan so they have a close connection to Ann Arbor. He said they believe the projects fit into the theme and the surrounding neighborhood, as well as the Master Plan, and they are pleased to have received the recommendation for approval from the City staff. He said they have accepted the responsibility of the intersection role and are aware of the improvements needed, and they are happy and excited for this project and would be happy to see it thrive in the community. He said they respectfully hope to gain the Commission's support tonight and they are available to answer any questions from the Commission.

Chair Woods closed the public hearing, unless the agenda item is postponed.

Moved by Briere, seconded by Adenekan, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the request for R4A (Multiple-Family Dwelling District) zoning designation for the Nixon Farm North site; and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Nixon Farm North Site Plan and Development Agreement.; and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the proposed modifications to the interior landscaping requirements for Nixon Farm North, in accordance with Chapter 62 (Landscape and Screening Ordinance), Section 5:608(2)(c); and

The Ann Arbor City Planning Commission hereby recommends that

the Mayor and City Council approve the Wetland Use Permit for the Nixon Farm North development; and

The Ann Arbor City Planning Commission hereby authorizes activity in the natural features open space for the Nixon Farm North development.

COMMISSION DISCUSSION:

Clein said he hadn't seen any exterior elevations showing the Commission what kinds of materials are being proposed.

Brainard said the exterior materials would be full brick, fiber cement siding [hardi plank] and in some applications they will have cultured stone and asphalt shingles and aluminum fascia in order to try to keep it as maintenance free as possible.

Clein asked Rampson about the development agreement, noting that in past agreements he has seen clauses to the extent that should the petitioner make material changes, they must come back for re-approval. He said oftentimes as developers are getting into the project, material changes must be done. He asked about the appropriateness of having such a clause in the agreements.

Rampson said in the past they have used such clauses for downtown projects that the Design Review Board reviews. She said if the Commission would like to add such a clause, they could do so along with the consultation of the developer present.

Clein commented that the development agreement clearly states that the various improvements in the area must be completed before the developer receives any Certificate of Occupancy, which is crucial to the developer in receiving money from the buyers who can't move in. He said he felt confident that these stipulations would be carried out knowing that the City has had success with fulfilling other such agreements in the past.

Clein asked if there has been discussion about donating parkland to the City.

DiLeo said currently the site plan for Nixon North shows 2.6 acres to be dedicated to the City and Nixon South shows an area of 3.4 acres to be dedicated to the City. She said the total was calculated using the PROS plan. She said on the North parcel there are 20-30 acres of good natural

area, which is counted toward the open space on the site plan, and the petitioners are willing to make that a park, but the specific boundary of how much would be City owned is still under discussion. She explained that the park donation transaction would occur after the site plan is approved if the development moves forward.

Woods asked if the large portion of open space is buildable.

DiLeo said, yes, some of it is, and the code says that natural features should be disturbed to a minimum, but the impact is left open for interpretation.

Peters asked the developer if they have had discussion with AAATA about what impact the development would have on bus service in the area.

Brainard said he had reached out to Mr. White at the AAATA offices a year ago, asking what their proposed development could do to help the transportation route in the area. White's response at the time was that he was aware of the project but it was too early for him to comment on the matter. Brainard said the door is still open for discussion.

Peters asked about the development agreement and possibly incorporating findings from a larger corridor study.

DiLeo said the Commission could approve a site plan with any number of stipulations; however, she cautioned that it could be problematic to add items related to the corridor study because it is not a project yet and would be tying this project to a significant unknown future. She offered to look into the matter, adding that the development agreement already included language that covered special assessments in the area, should that become necessary. She explained that improvements to the intersection have to be tied to the development agreement, since the intersection does not have capacity for added traffic, while the existing corridor itself does.

Peters said it seems that from what he has been made aware of, there is some disagreement on the level of available service within the corridor, when listening to public comments made in comparison to staff comments.

Mills asked about the vehicular area landscape modifications, noting that she appreciated the added trees to the area. She asked how the storm water coming off the roads will be handled.

DiLeo said the storm water coming off the roads would be handled by the development's storm water system, which is designed to meet the infiltration element of the new WCWRC rules. She said there are no bioswales lining the roads since there is the infiltration element.

Mills asked if the storm water will be managed by the site fully and not go into the City's system, since she felt that would be the most ideal.

DiLeo said it will only go into the City's system after it has gone through the site's storm water management system.

Bona said according to the staff report, the proposed project would have 3 dwelling units per acre while the Master Plan calls for a density of 10 dwelling units per acre. She said in order to support transit, we need 6 dwelling units per acre, so the proposed 3 dwelling units per acre raises a major red flag for her. She said in looking at the surrounding zoning districts she sees R1C and R2A, noting that Northbury is zoned for 10 dwelling units per acre. She asked about required lot sizes in the R1C zoning district.

DiLeo said R1C requires the minimum lot size to be 7,200 square feet, which would equate to about 6 dwelling units per acre.

Bona pointed out that the proposed density of the project is at half that of R1C, which is the single-family development to the east of the proposed project, and one third of the R2A zoning of Northbury. She said since the density is not supporting transit, this means it is an auto-oriented development, and with the existing problems on Nixon Road now, the added autos will not help. She said she had concern with the staff recommendation statement; '...because it complies with all applicable local, state, and federal ordinances, standards and regulations; it will not cause a public or private nuisance; and it will not have a detrimental effect on public health, safety or welfare...' She said she thought we were headed in the wrong direction, and therefore was inclined not to support this project, because it is actually contributing to the auto congestion on Nixon Road, not helping alleviate it. She said the Nixon Farms South development was different, as it had a higher density. She said this is only the second development that she has seen, since being on the Planning Commission, where the developer is proposing a lower density than allowed. She said she would be more comfortable if the density was at least at 6 dwelling units per acre because it would be supporting transit.

Bona said she wished the solutions for Nixon Road complete streets were more straightforward, but she can't see a safe way for anyone crossing Nixon Road if wanting to catch a bus in the afternoon or evening. She reiterated that having a project that doesn't move our options for alternatives to cars does not move us forward and is an expensive mistake for one of the few valuable properties that we have left. She said she was in agreement with the development agreement amendment as mentioned. She said she felt the landscape modification was an excellent recommendation and she would rather see the existing landscaping there. She also expressed support for the natural features open space proposal, adding that she felt it was a preferable compromise and better solution.

Clein said he supports higher density in order to get transit but also felt that they needed to look at the larger picture.

Briere said she had enquired of Rampson about the density and found that the Nixon Farm North site is 39 acres after the removal of the parkland, which comes out to a density of 5 dwelling units per acre, which still doesn't reach the benchmark of 6 dwelling units. She said the Nixon Farm South site is 37 acres of gross acreage and 24 acres after the removal of dedicated parkland, which changes it from 7 dwelling units to 11 dwelling units per acre. She said were they to count the 5 dwelling units per acre on the North, we would also have to consider the 11 units per acre on the South site and those 11 units are a lot more dense than the Master Plan calls for. She said she didn't think that Bona was off-base, adding that she thought that many would have preferred to see a mix of dwelling unit styles for both sites, which she felt would have balanced the density more attractively and could have provided an opportunity for more diverse housing options, which they currently are not getting.

Bona said the Master Plan uses the whole site so she didn't agree with the parsing off of the parkland contribution, since the contribution could have been in the form of money. She said this is a clustering of development on a site where the decision has been made to not spread the development evenly. She said if the units were spread out and not clumped together they would still be at 3 units per acre and has nothing to do with the parkland contribution, from the Master Plan perspective. She said while she had looked at both sites together, she still felt that this site went too far in going with less than half of what they need and far less than their neighbors. She said the perspective that this development is denser than what exists out there is not true.

Briere asked about parkland contribution.

DiLeo reviewed the proposed parkland dedication under discussion, which would allow connection to the existing park system.

Briere asked about safe egress from Barclay Street and how close together traffic control devices may be in order to allow people to enter and exit a busy corridor.

DiLeo reviewed the internal sidewalk portion for Nixon Farm North, noting that Woodbury Club Apartment's sidewalks and Nixon Farm's sidewalk wouldn't align perfectly.

Briere said one of the biggest concerns she has heard from neighbors is that they would like to continue enjoying the natural features of the site and have major concerns with the traffic issues. She asked Rampson if the traffic issues that would be contributed by the new development were enough of a concern to merit not supporting the project. She said she thought that the traffic was something beyond the responsibility of the developer. She asked if withholding approval because the traffic problem can't be resolved is rational or legal.

Rampson said Attachment D to the Land Development Regulations makes a statement that Council may deny a project that does not comply with the traffic requirements if the infrastructure is not in place. She said this is not how we have done it for the 30+ years this requirement has been in place. She said we have requested, for instance in the case of the Plymouth Green intersection that had many, many properties contributing traffic to the intersection, that new developments share the costs, and then the City looked for means of additional funding to complete the improvement. She said the City has given the option to the developer to either bring up the level of service or don't proceed. She said once a development meets the traffic impact requirements, Council would be obligated to approve the project.

Clein asked about the density, noting that the staff report comments that the density is in keeping with the Master Plan yet Bona saying it does not.

DiLeo said the staff recommendation was based on the site plan foundation plan and below, adding that the development layout is appropriate and places development where it is appropriate, and preserves area that should be preserved. She said the over-all picture of the building footprints, amenities provided, open space, storm water,

pedestrian access and sidewalk networks substantially met the elements of our Master Plan. She said they could go beyond meeting the requirements but staff felt that they met them to the extent that staff felt comfortable recommending approval. She explained that the Master Plan is a guide and the density is an element of the many guiding elements.

Rampson said in the past, residential developments that haven't been topped out for density have been accepted. She said the R4A zoning is consistent with the Master Plan, with the 'up to 10 dwelling units per acre', allowed. She said that the developer chooses not to get to that top density doesn't mean it doesn't meet the requirement, because the City doesn't have a minimum density. She said that topic might be of interest to the Commission at a future discussion on Master Plan recommendations.

Moved by Bona, seconded by Clein, that the site plan and development agreement motion be separated from the other motions. On a voice vote, the Chair declared the motion carried.

Moved by Clein, seconded by Mills, that the draft development agreement be revised to include a clause requiring the developer to maintain materials as specified on the submitted elevations.

DISCUSSION ON AMENDMENT TO DEVELOPMENT AGREEMENT MOTION:

Briere commented that she remembers materials were included in the Council approval of the Foundry project.

VOTE ON AMENDMENT TO SITE PLAN AND DEVELOPMENT AGREEMENT MOTION:

On a roll call, the vote was as follows, with the Chair declaring the motion carried.

Yeas: 6 - Wendy Woods, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Sarah Mills, and Bonnie Bona

Nays: 1 - Jeremy Peters

Absent: 1 - Sofia Franciscus

COMMISSION BREAK

VOTE ON NIXON FARM NORTH SITE PLAN AND DEVELOPMENT AGREEMENT MOTION, AS AMENDED:

On a roll call, the vote was as follows with the Chair declaring the

motion failed due to the lack of six affirmative votes.

Yeas: 5 - Wendy Woods, Eleanore Adenekan, Kenneth Clein, Jeremy Peters, and Sarah Mills

Nays: 2 - Sabra Briere, and Bonnie Bona

Absent: 1 - Sofia Franciscus

COMMISSION DISCUSSION ON ZONING DESIGNATION, MODIFICATIONS TO INTERIOR LANDSCAPING REQUIREMENTS AND WETLAND USE PERMIT, ACTIVITY IN THE NATURAL FEATURES OPEN SPACE:

Chair Woods noted that Planning Commission does have the final decision on the natural features open space motion.

Peters commented that the natural features of this site are currently not useable by the neighborhood and the changes will allow more access and enjoyment to those natural features. He voiced his support for the interior landscape modifications that the made the most sense making use of the existing landscaping.

Briere said as she hears from people who are concerned about losing agricultural land, she reluctantly has come to realize that with the City's size there will not be much agriculturally zoned land left in Ann Arbor in time. She said in reading the Master Plan, this proposed site was never intended to be annexed into the City as agricultural land. She said she is supporting the R4A as it fits in with the expectations for this area.

NIXON FARM NORTH-VOTE ON ZONING DESIGNATION, MODIFICATIONS TO INTERIOR LANDSCAPING REQUIREMENTS, WETLAND USE PERMIT, ACTIVITY IN THE NATURAL FEATURES OPEN SPACE:

On a roll call, the vote was as follows, with the Chair declaring the motion carried.

Yeas: 7 - Wendy Woods, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Jeremy Peters, Sarah Mills, and Bonnie Bona

Nays: 0

Absent: 1 - Sofia Franciscus

Chair Woods asked if the Commission wanted to extend the meeting and take up further business.

Moved by Clein, seconded by Adenekan, to continue the meeting past 11 p.m. On a voice vote, the Chair declared the motion carried.