

**Loch Lloyd Planning & Zoning Commission Meeting  
October 10, 2024 (Revised Per Commission Vote)**

A meeting of the Loch Lloyd Planning & Zoning Commission was held on October 10, 2024. Those present included Chairman Chuck Etherington, Commissioner Cory Smith, Commissioner Mike Hunter, Commissioner Jim Hillman, Commissioner Nate Irvin, Commissioner Andrew Elsberry, Commissioner Worstell-Benjamin, Commissioner Anthony Lafata, and Commissioner Randal Schultz. Also present were Village Planner, Christopher Shires and Village Attorney, Jonathan Zerr.

**Call to Order**

Chairman Etherington calls the meeting to order at 6:03 p.m.

**Roll Call**

Chairman Etherington requested Mr. Zerr to conduct the Roll Call of members present. Mr. Zerr called the roll, confirming the presence of the full membership of the Planning Commission.

**Approval of Agenda**

Chairman Etherington recognized Commissioner Irwin who motioned for approval of the agenda.

Chairman Etherington recognized Commissioner Hunter who seconded the motion.

There being no further discussion on the motion, Chairman Etherington called the question. The motion passed by unanimous vote 9 to 0.

**Approval of Previous Meeting Minutes**

Chairman Etherington then confirmed that that two (2) sets of minutes (including meeting minutes from August 6, 2024 and October 3, 2024.

Chairman Etherington recognized Commissioner Hillman who motioned for approval of both minutes as presented.

Chairman Etherington recognized Commissioner Smith who seconded the motion.

There being no further discussion on the motion, Chairman Etherington called the question. The motion passed by unanimous vote 9 to 0.

**Public Hearing**

Introductory remarks by Chairman regarding the submission for the record and process moving forward. Confirmation of receipt of a 14-page submission by representatives of the South HOA. From what is gleaned from initial review, the arguments included analysis that the applications are not complete and that the hearing of the matter is premature. Staff assures that they view the application as complete and prepared for evaluation by the Planning and Zoning Commission. Assurances from staff that the concerns expressed can all be addressed at later stages in the development process. Will proceed with the hearing considering the merits of the submission and application. Purpose is to consider an application from the developer to rezone certain portions of the land that held the Sechrest 9. Chairman Etherington noted iterative process between the developer and Mr. Shires who has been working to prepare the materials for presentation this evening. Mr. Shires has submitted a staff report and analysis of the application

which has been supplemented as of this week following the recent good neighbor meeting held on September 24. All of the materials were published and available on the Village website in advance of the meeting this evening. Presentation of the order of the hearing this evening along with the potential options available for action by the Commission. The first step in a multi-step process. Mr. Shires has been asked to provide input on the process.

**a. Rezoning of land within portions of the Sechrest property within the Village of Loch Lloyd from Recreational and Open Space (ROS) to Single Family Residential District (R-1) to accommodate the platting and development of single-family residential lots. Chairman Etherington opened the public hearing at 6:09 p.m.**

**i. Presentation by Village Consultant**

Chairman Etherington recognized Mr. Shires for presentation of the staff report.

**a. Highlights of the rezoning application**

- i. Four areas of rezoning identified as Areas 1 through 4
- ii. Applicant seeking a change in the base zoning from Recreational and Open Space (ROS) to Single-Family Residential (R-1).
- iii. Does not consider what restrictive covenants may be provided.
- iv. Area I (Country Club Drive)
  1. Taking 5.35 acres to potentially create seventeen (17) single-family lots.
  2. Noted compliance and deviations with setback requirements under the development ordinances including front, side and rear setbacks.
  3. Mr. Shires notes that an additional sidewalk along Country Club Drive has been included. (Shown on provided exhibits.)
  4. Still showing realignment of the existing trails.
  5. Lots 10-15 preserve the 150' buffer zone for existing homes two sets of landscape improvements including berms and landscaping to be developer installed. Identified as a desired buffer (not mandatory).
  6. Each homeowner would also need to expend an additional amount for landscaping on their particular lot.
  7. Also noted the significant level of preservation of trees anticipated.
- v. Area II (Across from Clubhouse)
  1. Potentially creating four (4) single-family lots.
  2. Will include a proposed realigned trail and crossing.
  3. Landscaping does not impact the 150' buffer area.
  4. Developer improvement will be up applied along with homeowner mandatory landscaping
- vi. Area III – Southwestern area.
  1. Taking 2.6 acres to potentially create two (2) single-family lots
  2. Meeting setbacks of the R-1 district.
  3. Maintaining the current trail system with adjustments.
  4. One house to the south is closer than the 150' buffer area envisioned in the code.

5. Includes both developer installed buffering as well as homeowner obligations for additional buffering on each lot.
- vii. Area IV – Largest Area for Potential Rezoning)
1. Taking ten (10) acres and potentially creating twenty-five (25) single-family lots with a new private roadway off of Grace Drive.
  2. Lots will generally be between 0.23 and 0.42 acres in size to meet minimum yard sizes of 10,000 square feet.
  3. Lots 24 through 28 are within the 150' buffer area.
  4. The remaining lots would allow for the 150' buffer area.
  5. Current landscaping will be preserved, and new landscaping will be installed.
  6. A new 60' wide street would be installed including streetlights consistent with the remainder of the Loch Lloyd development.
- b. Coverage of the Review/Development Process
- i. The developer will need to continue working with the water district for water and sewer infrastructure approval.
  - ii. Similarly, the developer will need to submit a detailed stormwater management plan which will be presented and evaluated as part of the overall process and development agreement to keep from increasing flow off-site and an erosion control plan and permit from the State of Missouri.
  - iii. Detailed plans will need to be submitted as part of the development review process for vehicle and construction access into each of the affected areas.
  - iv. Will need to work directly with the South HOA for any approvals they may need, which is a separate process from this rezoning including use and connection to HOA streets. Understand that this is a controversial issue but it is up to the developer to reach. The job of the Planning and Zoning Commission is to enforce the unified development code for the village...not to enforce private property owner agreements.
  - v. Trail improvements, modifications, and removal along with landscaping and grading will need to be addressed as part of the plat process.
  - vi. Will require that the developer enter into a Development Agreement with the Village as part of the plat process.
  - vii. Will ensure that the development would be constructed according to the materials presented by the developer including bonding, timing and improvements are according to the approved development standards.
  - viii. Development Agreement will also include enforcement options.
  - ix. The land use master plan will also be updated to reflect the changes sought, if approved.
  - x. Mr. Shires read the 150' buffer language as adopted by the Village along with areas that will not meet this recommendation.
  - xi. If the rezoning is approved by the Board of Trustees, the process moving forward would include the submission and review of a

Preliminary Plat with similar public hearings before the Planning and Zoning Commission and the Board of Trustees. The preliminary plat will include significant supporting engineering plans and construction materials.

- xii. Final Plat will be submitted for approval with similar public meetings with both the Planning and Zoning Commission and the Board of Trustees.
- xiii. Mr. Shires opens for questions from the Commission members on the review process moving forward.
  - 1. Chairman Etherington recognizes Commissioner Elsberry for questions regarding what the Board of Trustees generally does with the P&Z recommendations. Mr. Shires and Mr. Zerr provide responses accordingly, based upon prior experience.
  - 2. Chairman Etherington recognizes Commissioner Hillman regarding concerns with portions of the area to be rezoned including suggestions for Planned Residential Development as opposed to R-1. Mr. Zerr inserts legal recommendations on comments for the application. Mr. Zerr requests that all evidence is presented before any decisions of comments on votes.
  - 3. Chairman Etherington recognizes Commissioner Lafata for information on the public hearings versus public meetings. Mr. Shires provides information on the meetings...but not hearings for further development processes.
  - 4. Question from Chairman Etherington regarding utilization of the Planned Residential Development option for rezoning. Mr. Shires provides response that the application is for R-1 base zoning. Staff has included "conditions" if the application is approved. Mr. Shires notes that the process of the R-1 (with conditions) gets a similar outcome as the PRD option.
- c. Conditions of Approval (Conditions 1 through 8)
  - i. Mr. Shires identified the three (3) requisite findings should the Commission decide to recommend approval of the requested rezoning, including (i) make a finding that the land use policies outlined in the adopted Land Use Master Plan and listed herein have been considered, (ii) recommend the Land Use Master Plan Map be updated to show the rezoning areas as single-family residential, and (iii) recommend the rezoning as detailed herein and as provided in the application be approved subject to the additional eight (8) conditions.
  - ii. Mr. Shires covered and read the eight (8) conditions for approval that are included in the staff report on pages 6 and 7.
  - iii. Open to additional conditions or modifications of the conditions.
  - iv. The conditions will serve as a basis for the Development Agreement to be negotiated and submitted with the plats.
  - v. Open to questions on the process.

- vi. Chairman Etherington recognizes Commissioner Elsberry for question on the impacts if the evidence does not support the conditions or findings. Mr. Shires provides response on the same. The catchall of #8 condition gives the ability to undo the rezoning. Mr. Zerr notes that injunctive remedies would be available.
- d. Entry of Evidence / Documents
  - i. Chairman Etherington recognizes Mr. Zerr for submission of additional evidence for the record including:
    1. Unified Development Code,
    2. Published Notice,
    3. Mailed Notice,
    4. The PowerPoint presentation provided by Mr. Shires,
    5. Submission for the record from the South HOA regarding the proposed 48 lot development,
    6. Application and additional materials,
    7. Staff report,
    8. Land Use Master Plan, as currently adopted.
  - e. Mr. Shires concluded his presentation and recommended that the developer be given an opportunity to present.
  - f. Chairman Etherington recognizes Commissioner Lafata for inquiry on whether the developer's presentation materials should be included in the record. Mr. Zerr provides response to same, that they are not unless and until requested by the developer.
- ii. **Presentation by Applicant**
  - a. Chairman Etherington then recognizes Brent Draper, representative of the applicant for presentation of the proposed development.
    - i. Mr. Draper provides a PowerPoint presentation on behalf of the applicant for the development and rezoning of the Sechrest parcels. Mr. Zerr enters the same on the record.
    - ii. Updates on the proposed development plans since the public engagement session. (Good Neighbor Meeting)
      1. Intent of the meeting
        - a. Answer questions.
        - b. Collect ideas.
        - c. Gather feedback and hear concerns.
      2. Implemented a number of ideas into the plans.
        - a. Description of new sidewalk location on Country Club Drive.
        - b. Description of change in location of the trail within Area #2 between the 2<sup>nd</sup> and 3<sup>rd</sup> lots.
        - c. Will also provide crosswalks on the roads at each location where trail/golf cart crosses the street.
        - d. Bathroom & Trail in Center Cut will be retained.
      3. Center Cut will be left open under the proposed rezoning and development. The intention is to NOT develop within the

center cut. Intention is to make it look like Hole #2 currently appears.

4. Developer affirmed that they agree with all of the conditions for rezoning that were included in the staff report provided by Mr. Shires and entered into the record for the hearing.
5. Developer requested the inclusion of one more condition. Commitment that the Developer will not pursue any development within the Center Cut parcel.
6. Developer representative read correspondence (written commitment) to not develop the center cut so long as owned by Developer. Letter dated October 10, 2024, from Mr. Illig received on the public record by Mr. Shires.
7. Developer representative noted that the commitment cannot be made a recorded encumbrance on the property within the center cut as it has been used as collateral within the Community Improvement District.
8. Update on the center cut and proposed development.
9. Overall, 48-residential lots while retaining 80% of the current green space.
  - a. Area 1 – Total of 17 lots.
    - i. Additional ½ percent of landscape requirements by the homeowners of \$7,500 on average for a \$1,200,000 home. Amounting to an additional 8 to 10 trees.
    - ii. Discussion of the berms that they anticipate installing.
  - b. Area 2 – Total of 4 lots average of 0.43 acres each.
    - i. Pricing set at \$260,000 for lot.
    - ii. Homes of \$1,500,000 to \$2,000,000.
    - iii. Removed a lot after the good neighborhood meeting to allow for additional setback and to preserve the view corridor.
    - iv. Set back and building standards will mirror the other homes.
    - v. Trail amenities description including removal, repair, replacement, and new.
    - vi. Bird's Eye view from the PowerPoint presentation of the area including analysis of the homes and view corridor.
  - c. Area 3 – Total of 2 lots averaging 0.50 acres each.
    - i. Lot prices \$300,000.
    - ii. Home of \$1,500,000 to \$2,000,000.
    - iii. Set back and building standards will mirror the other homes
    - iv. One trail removed, but replaced with a new trail amenities installed/laced in.

- d. Area 4 – Total of 25 lots.
  - i. Goal is to create homes where they can age in the community as resident needs change.
  - ii. Goal will include offering different floor plans and smaller areas.
  - iii. To do this, the developer is proposing to create Beverly Court with 25 single-family lots.
  - iv. Lot pricing will be approximately \$210,000
  - v. Set-backs in this will be at 7.5' for side yards which is a 50% increase from The Cove.
  - vi. Lot sizes will be similar to Grace Drive and Heather, with less overall square footage but thicker.
  - vii. Trail amenity will include repair, and in places removal of the and new trail laced back in.
  - viii. Homes circled in red on the materials will require the additional half percent in landscaping at homeowner costs.
  - ix. Additional screening and buffering with line of sight examples provided in renderings on the PowerPoint.
  - x. Goal of the developer is to add multiple layers of screening including berms, evergreens, trees, etc.
- e. Center – Cut discussion
  - i. Developer is committed to making it green space that will look like hole #2 off of Holmes.
  - ii. The Center Cut will not be developed for housing but may be considered for future golf option.
- f. Water and Sewer issues. No dirt or development will occur unless and until there is an executed Letter of Intent to participate in any upgrades needed for water and sewer services. This may require upgrades to current lift stations for sewer service.
- g. Developer presents Bret Haugland, development engineer to speak on stormwater and engineering challenges to be addressed during the course of development review with the Village.
  - i. States that stormwater absolutely is not normally discussed in a rezoning process.
  - ii. Overview of stormwater analysis in the area to be considered. Evaluation of the 10-year and the 100-year storms including detention and flow.

- iii. They are aware of the deficient stormwater conditions within the community under existing infrastructure. They will be required to evaluate the impact of the development before final approval and construction so that it does not increase or detrimentally alter the conditions.
- iv. This will be a process similar to municipalities that they regularly work in for engineering other developments.
- v. Chairman Etherington recognized Commissioner Lafata for a question regarding provision of detention on the development area versus on private properties of other individuals. Mr. Haugland confirmed that it will need to be detention on the developing portions, not outside of the rezoned areas.
- vi. Chairman Etherington recognized Commissioner Hunter for questions regarding storm drainage planning issues including what year of storm they will be planning for, and what form of detention will be utilized. Mr. Haugland and Mr. Draper provided their responses. Pipes will be designed to handle a 10-year storm but the overall plan will account for what a 100-year storm will do and protect homes from the same. This could include overland, detention, or larger pipe size. Could include multiple detention basins. Roof and driveway flow will be included in these calculations. Not looking to improve, but will not be causing additional water to be pushed through the system in a destructive method. This will be planned and engineered (again) as the development process unfolds after a determination on the rezoning. Follow-up questions on the level of detention required for Area 4. Mr. Haugland confirms that underground detention will be required, to be engineered as part of the development. Follow-up question on existing storm pipes being undersized and commitment from the water district on the status of service. Mr. Haugland responds regarding upgrading the systems. Commissioner Hillman proceeds to get into deeper discussion of engineering issues surrounding the development stormwater issues.



- vii. Chairman Etherington recognized Commissioner Hillman for questions regarding completion timeframe for the proposed stormwater analysis. Mr. Haugland confirmed that it would take a couple of months. All of the plans will need to be undertaken. He opined that to go through that effort would be premature and too speculative at this point if the rezoning application is not approved. Follow-up confirming that the final engineering study will be done as part of the preliminary plat. Mr. Haugland confirms same.
- viii. Chairman Etherington recognized Commissioner Elsberry for a question on whether holding tanks are already on the property. Mr. Haugland provided the response that it does not have a detention basin or cistern on the property. Loch Lloyd does not impose a requirement for stormwater detention by ordinance or statute. He stated that the developer is undertaking these efforts for the benefit of the entire community and development. Follow-up question from Commissioner Elsberry regarding potential topographical changes affecting the water flow. Mr. Haugland responds regarding stormwater affected by berms. It will all still flow downstream. We know existing deficient conditions but have not analyzed all potential conditions that will be affected by development. Will not have these until next steps in the development process.
- ix. Chairman Etherington recognizes Commissioner Irvin for a question on the potential inclusion of an additional detention structure within Area 4. Response from Mr. Haugland regarding the impact of the drainage swale and affected neighbors. Where they detain water will be determined by engineering evaluation.
- x. Chairman Etherington recognizes Commissioner Elsberry who commented on the detention issues on hole #3 including prior existence of lake thereon. Response by developer that evaluation will need to be

conducted to make sure that the new development does not cause further problems.

iii. **Questions from the Commission**

- a. Chairman Etherington recognized Commissioner Elsberry regarding the development policies, including Policy #2 on the 150' buffer zone, dwellings must be designed to mitigate the visual impact, what has been done in consideration of those policies. Response by developer confirming that discussions with the South HOA have not been established for building standards. Right now, there are no homes within the community that are higher than 35'. If the South HOA wants different sizes, roofs, heights, or otherwise they can be included in their discussions for the same. Commissioner Elsberry suggested that he can only consider items in the application and the developer could have gone to the South HOA to address these items in advance. Suggested that they are putting the cart before the horse. What good is it getting it approved by the South HOA when we don't have the zoning to proceed. Mr. Shires suggests that all of this would be included in the Development Agreement and could be included in the "conditions of approval".
- b. Chairman Etherington recognized Commissioner Hillman for questions on the setbacks in Area 1 and Area 4. Commissioner Hillman expresses his concerns over the property lines, setbacks, buffer zones, and how they are protecting surrounding lots. Response by Mr. Shires including the chart within the staff report showing requested alterations in the development standards being sought. Developer representative confirms that it mirrors what has been developed across the street. Trouble with the 30' between property lines. Seems like "row houses". Mr. Zerr interjects for questions rather than comments on positions, anticipated votes. Comments versus questions. Follow-up from Commissioner Hillman regarding egress from the South property. How will the lot across the street be protected? Response from developer regarding the current tree that provides a break from lights into the property and potential screening options. Think they can work with the homeowner to install what protections that they need. Renditions in the program materials showed the screening options available.
- c. Chairman Etherington recognized Commissioner Elsberry regarding retention of a row of mature trees along the property line, and the additional ½ percent for landscape budgets to be provided by the homeowners. Development will provide for a 60' swatch of area for protection of trees. Follow-up question on Area 4 tree retention. Response on the restrictions imposed for removal of trees by the Development Review Committee. Do not know how many trees will be removed. How is the ½ percent being allocated. Confirmation provided by developer that it will be dedicated to screening areas that are abutting neighboring properties. Follow-up questions from Commissioner Elsberry regarding construction of the homes to be built at street level or downhill and the preservation of windows other than on hole #9 and the existing retention basin in Area 1. Developer responds that the berms will be designed depending upon how far back from the lot lines are needed and

homes will be built at street level. Additional viewing window will be included on Highland Ridge.

- d. Chairman Etherington recognizes Commissioner Irvin regarding the additional 11-acre parcel and whether there will be a landlocked portion. Developer advises of their efforts to purchase the property. Mr. Zerr responds as to the obligations and issues involved with areas outside of the Commission's consideration for the rezoning. Discussion amongst members of the Commission.
  - e. Chairman Etherington recognized Commissioner Hillman regarding the annexed 11-acre Mike Neighbors parcel including whether there is an annexation agreement. Developer provides a response on impacts.
  - f. Chairman Etherington recognized Commissioner Worstell-Benjamin regarding whether South HOA approval is necessary and if this application is premature. Response from Mr. Shires regarding the process and procedure of rezoning including the Village obligation to enforce subdivision regulations. Private property ownership agreements are not within the items enforced by the Village. The issue will need to be addressed and resolved before any development occurs.
  - g. Chairman Etherington recognized Commissioner Elsberry regard what is in place with the water district and obligations for water/sewer services. Response by developer including the history of development with the water district. A Letter of Intent has been executed between the developer and the district representatives. This will be further evaluated and documented for approval prior to any construction occurs. Could include a booster station. The developer is committed to helping the district with the costs. Commissioner Elsberry inquires on the caps for the financial commitment of the developer. Response from developer that they do not have an answer on that question yet.
  - h. Chairman Etherington recognizes Mr. Hunter regarding status of the current water district follow-up including the ability to pull out of development. Response from the developer that without agreement with the water district, there is no development regardless of the rezoning.
- iv. **Comments from the Public (each speaker is limited to 2 minutes)**
- a. Chairman Etherington opens the discussion for public hearing including recognizing Mr. Shires for instructions on each speaker.
  - b. Chairman Etherington recognizes Commissioner Elsberry for recommendation that the South HOA Board legal representative go first.
  - c. Chairman Etherington confirms that council for the developer and the Village will also be given an opportunity to respond.
  - d. Mr. Zerr suggests that questions or concerns be addressed to the Commission rather than to the developer directly.
  - e. Start with Mr. R. Scott Beeler, legal representative of the South HOA.
    - i. South HOA is not pre-disposed to be for or against this application or any other development proposal.
    - ii. But the Board will not approve development until and unless necessary protections are in place for the existing community and residents.

- iii. Believes that the matter is premature for consideration.
- iv. Why has the South HOA not been involved in the discussion.
- v. Absolutely a legal requirement that the South HOA approve and consent to the inclusion of the property and access to the property including streets, lake, and gate.
- vi. The South HOA has been trying to avoid the quasi-judicial position by the Board of Trustees.
- vii. By having a rezoning go forth, will be done without the necessary/major questions, consents, or studies.
- viii. If this body recommends approval to the Trustees and the Trustees approve. Then the South HOA will have the entire weight of the world on their shoulders and will effectively have veto power.
- ix. The unique nature of the Village including all of the entities North HOA, South HOA, Country Club, the Developer, and the Village need to be working together, and rowing in the same direction.
- x. South HOA owns all the streets, gates, guard shacks, all amenities, all common areas.
- xi. The Village was only created to avoid other surrounding cities from taking annexing it.
- xii. If approved, the water district and the South HOA board have to approve any development.
- xiii. Drainage and detention issues should be resolved prior to approval of the rezoning.
- xiv. We all have to follow the rules. The application materials and ordinances say that if they want a rezoning, there must be a complete application, or it is to be deemed incomplete and should be returned to the applicant. Identifies a multitude of requirements, none of which has been submitted by the applicant.
- xv. Cart before the horse. In this case, the application is incomplete. None of it should be taking place until all studies are done and everyone has come to the table.
- xvi. No formal request to the South HOA for approval or consent for anything has been submitted.
- xvii. Critical step...most important step because this is the public hearing.
- xviii. Next meetings are public, but no public hearings will be taken on those matters.
- xix. Mr. Beeler provided the list of items he identified as pre-requisite to approval and argues that without the items it is imprudent to proceed.
- xx. We have asked for a seat at the table for 2.5 years and they have promised to keep the dialogue going.
- xxi. Suggestion made that a master plan is required to proceed forward with the application. Need analysis of the "whole thing".
- xxii. What is the commitment to not build houses on areas 5-9. What will it be? What should we plan for? All of it matters in determining how to proceed.

- xxiii. South HOA needs to know what the true impact is going to be on the existing community.
- xxiv. Application was submitted with proposed declaration of covenants, conditions, and restrictions which doesn't include the South HOA.
- xxv. Critical to note that the developer cannot access the property and cannot build on it, without approval.
- xxvi. What happens to the homeowners that abut the development and the construction materials that will go with the development?
- xxvii. Last comments, it is typical for a professional staff recommendation to be provided (not required) but typical. There is no staff recommendation with this application. Commission makes a recommendation with final approval by the Board of Trustees.
- xxviii. Noted that 40% of the total lots proposed will require deviations in setbacks and design standards.
- xxix. Private agreement/stipulations that the developer has to enter an agreement with the Village.
- xxx. Asking to vote no...unless you feel it is not premature. If you do not vote no, you can continue it to a later date for more evaluation.
- f. James Braynard 16640 Country Club Court – Question on the South boundary regarding the location of trees. Mr. Zerr responded that it was an opportunity for comments.
- g. Jake Ilick lives on Heather Glen. Has lived here for 20 years. Surprised of the first 5-6 homes to be developed next to the clubhouse in light of the number of cars that currently park on the street there. Second comment 4-5 homes on hole #4. Not fair to the 3 homes on the Meadow. The 30' yards is really not fair for those 3 homes.
- h. Sharon Timmons 16810 S. Grace Drive thanks to Commissioner Worstell-Benjamin and the lawyer from the South HOA and prior speakers regarding lack of input from the other parties. Do not want to use Grace Drive for construction equipment. The characteristics of the large homes will not be compatible with the smaller homes being requested. Do not match the other homes that are there. 14' between homes is not acceptable. Hole #4 presents a large spring fed pond. South HOA has never had enough involvement.
- i. David Pearson 16939 Meadow Lane has a major concern with future development that is going on regarding wastewater and runoff water. His house and the two houses down have water in their basements when sump pumps go out. Drainage issues and creek in the backyard would devastate the neighborhood if you have the additional houses on hole #4. Agrees with the South HOA that there needs to be a lot more discussion before anything moves forward.
- j. No additional individuals approach to speak from the public present in person.
- k. Chairman Etherington recognizes Mr. Shires for input from residents who are attending online.
- l. Sloane Noye, 16821 Grace Drive. Area 4 is her backyard. There is nothing about the plan that she likes. Has concerns regarding the bump up on to her backyard. Question on whether there was a study done to see if there's a

market for the proposed housing product. Would like it to be shared if there has been one done.

- m. There being no further public comments, **Chairman Etherington closes the public hearing closed at 8:25 p.m.**
- n. Comments from Mr. Shires regarding answers to the two questions posed by the residents. Where the existing tree line is and the neighbors property south of Area 4 in relation to the trees. Anticipated that trees are on both sides of the property line. Second question, has there been any study on the marketability of the proposed housing product. Village has not requested a study and it is not typically a consideration in most rezonings. Commission could ask the developer if they are inclined.
- v. **Discussion by the Commission**
  - a. Chairman Etherington recognizes Commissioner Elsberry for a question to staff regarding the set-backs mirroring the adjacent homes. But the presentation showed deviations from the minimum standards. Mr. Shires responds that the variations are throughout the Village in other portions of the developed areas. This would be memorialized in the Development Agreement. Follow-up from Commissioner Elsberry regarding the proposed new dwellings aligning with the adjacent properties for the development side/rear yard setbacks. Mr. Shires responds that he is unsure what the current house setbacks are for each unit in the area. Estimates that some do and some do not. Some of the approved plats and plans deviate from the adopted code. Making it similar to the homes in the area. Would require a survey of all of the adjoining property owners. Follow-up from Commissioner Elsberry on what the effect of the proposed development would have on the existing density within the subdivision (aggregate and this specific area). Mr. Shires indicated such information is not available. Additional follow-up from Commissioner Elsberry regarding whether the submitted restrictive covenants comply with the South HOA regulations. Mr. Shires responds that he has not gone through them for consistency. As he understands it, the Secret is not within the Association, or at least not all of it. This would be up to discussions and final approval with the South HOA and the Developer to negotiate. Additional follow-up from Commissioner Elsberry regarding the public input process and the attention given to the amendments of the Unified Development Plan regarding setbacks, lots sizes, home styles and prioritization of other items. Commissioner Elsberry requested a reminder of the findings during that process about what the community envisioned. Mr. Shires provided a response noting the desire for "like building sizes" and "like lot sizes". He confirmed that the discussion did not get down to the level of setbacks. According to Mr. Shires, the focus was on consistency, specifically that the community did not want to see multi-family, commercial, or other differing development. He also noted that the percentages of brick, stone, etc., could be included in future rewrites of the development code, but those are generally covered by the restrictive covenants.
  - b. Chairman Etherington recognized Commissioner Hunter for inquiry on the options available for a vote on the matter. Mr. Zerr responded by citing from

the Unified Development Ordinance regarding the Commission's obligation to forward applications to any change in the zoning map to the Board of Trustees with its recommendation of approval, approval with conditions, or denial. Additional follow-up comments from Commissioner Hunter that the application is incomplete due to the failure to involve coordination of the South HOA which needs to be included. Understands that normally an HOA would not be included in the discussion at this time. But the Village and community is unique. If they have veto powers, they should work it out before presentation to the Commission. Inquired on the conditional nature/options. Mr. Shires provides his response that an option could be to continue the item to a later date with specific things that they want to see in advance of the vote. We do need to process the application. What is the purpose for the continuance. What information is pertinent to the decision-making. Commissioner Hunter responds that the South HOA should be included in the process and second, he could not vote in favor when those six houses on the back are not protected with the 30' boundary.

- c. Chairman Etherington recognizes Commissioner Elsberry regarding conditions for approval including specifically #7 which he believes needs to be supplemented to require approval of the South HOA including access and use of South HOA roads during construction including monitoring of streets being used for construction. Would request that it be included as one of the conditions for approval. Believes that they need to go back to the land use master plan policies and analyze them individually for purposes of framing the discussion.
- d. Chairman Etherington recognizes Commissioner Hillman for comments Hillman for comments regarding the annexed Mike Neighbor's property. He has indicated his intent to possibly build thirty homes on this annexed property, which would be back-to-back with the Developer's proposed properties (i.e., no separation between lots). What is he allowed to do by the annexation agreement or otherwise? What are his access rights? Can he tie into Loch Lloyd's roads and South entrance? Does he have the right to the water and sewerage system. Expressed his belief that the Planned Residential Development designation would allow for the set-back deviations. Would want to see the rezoning and the preliminary development plan approved together.
- e. Chairman Etherington recognizes Commissioner Worstell-Benjamin for comment including her belief that this meeting is significantly premature and needs to have it continued to a date certain with the provision of additional information. The desire is to have something satisfactory to all involved. Not sure how to do that, but we are not able to do their job without it in making recommendation to the trustees.
- f. Chairman Etherington recognizes Commissioner Lafata for inquiry of Commissioner Worstell-Benjamin on exactly what additional information would be needed in her opinion to move forward. Commissioner Worstell-Benjamin responded with the inclusion of a consent from the South HOA which takes into account their perspective and thoughtful consideration and

the recommendations addressed by the South HOA attorney this evening. Commissioner Lafata provided a follow-up that all of the involvement and concerns of the South HOA will be addressed at a different time in the development process. Further, Commissioner Lafata agreed with Chairman Etherington that expansion of the conditions would be appropriate. The process cannot move forward until the conditions are satisfied. The preliminary plat process requires full stormwater analysis, water analysis and approval, sewer analysis and approval, access to roads. All of these come in at a different time. Is it worth moving forward or not. If the conditions are not met, then the Village can pull back the rezoning if not undertaken by the developer.

- g. Chairman Etherington recognizes Commissioner Elsberry regarding concerns including the land use policies that have been set out as a rubric for analyzing proposed changes for a rezoning. Commissioner Elsberry then identified what he believed were factors of the development that did not comply with the land use policies and criteria for approval.
- h. Chairman Etherington recognizes Commissioner Hunter regarding having the South HOA being at the table due to the unique nature of the development. Also concerned with the houses along hole #4. Thinks this should stay in committee for a future set date to resolve it.
- i. Chairman Etherington recognized Mr. Shires for comments on the potential continuance and basis for the same. The basis needs to be very specific and exacting in the information regarded to proceed. Alternatively, they could request a deferral to a future later date for an additional meeting with the representatives of the South HOA. Any recommendation must also include a reasonable timeframe and as specific as possible. If no specific piece of information or reasonable timeframe can be identified, then it needs to be voted on this evening for either "approval", "approval with conditions" or "denial".
- j. Chairman Etherington recognizes Commissioner Elsberry who affirmed their obligation to make a decision.
- k. Chairman Etherington recognized Mr. Zerr for reminder of the ordinance obligations of the Commission.
- l. Chairman Etherington recognized Commissioner Worstell-Benjamin for confirmation and understanding of options for request of additional information versus simply recommendation of denial when the application is "complete". She expressed that she still believes that it is not complete. At minimum, she is looking for consent from the South HOA to the proposed rezoning and plans. Does not want to put the South HOA in the position of having to exercise their veto power due to "legal" and/or "court" impacts. Additionally, for conditional approval, they would expect to be seeing submission of drainage and stormwater management studies, analysis of potential construction impacts on the existing street networks, and consents from the water district. Most important is the consent of the South HOA. Should not be caught up in the logistics because operationally, it's going to work that way any way. Give them a seat at the table as requested.



**vi. Commission Action – adoption of resolution making a recommendation to the Village Board of Trustees**

- a. Chairman Etherington recognized Commissioner Lafata who motioned to accept the findings from staff and recommend approval of the rezoning subject to the eight (8) conditions identified by staff and the additional ninth (9<sup>th</sup>) condition presented by the developer this evening in the October 10, 2024 letter to not develop the remainder of the center cut.
- b. Motion died for lack of a second.
- c. Chairman Etherington recognizes Commissioner Worstell-Benjamin for a motion to continue the matter for no more than seventy-five (75) days subject to submission of the consent of the South HOA in advance of the meeting taking place, submission of drainage and stormwater management studies, analysis of the potential construction impacts on existing street network, and consent from the water/sewer authority, information regarding the proposed lot sizes, setbacks, home sizes, effects on density, what water volume capacity is presently.
- d. Chairman Etherington recognized Commissioner Hunter who seconded the motion.
- e. Chairman Etherington recognized Commissioner Elsberry regarding information on the proposed lot sizes, setbacks, home sizes, effect on density, and a report from the district on where water and sewer services stand in regard to capacity and effect on new development.
- f. Chairman Etherington recognized Commissioner Hunter for set-backs greater than 30'. Mr. Zerr responds regarding an effort by the Commissioner to alter the application versus a decision on the application. The developer has presented a proposed plan. They are looking for a thumbs-up, a thumbs-down, or a thumps-up subject to certain conditions. The suggestion is not for additional information, it is an attempt to alter their application.
- g. Chairman Etherington recognized Commissioner Elsberry for questions on the Board of Trustee determination and potential for the Commission not providing a recommendation. Mr. Zerr responds that it will only go to the Board of Trustees if the Commission has a tie vote, and or cannot get a vote of a majority on any specific motion. Unified development code provides three options. Mr. Zerr provided the same again for reminder to the Commission and where the Commission should focus its efforts on rezoning application before it.
- h. Chairman Etherington recognized Commissioner Elsberry for comments regarding the timeframe for reconsideration and next meeting. Mr. Zerr provides input on same and agreement that they could simply deny the application.
- i. Chairman Etherington recognizes Commissioner Worstell-Benjamin who noted that by denying recommendation, it simply puts the matter into the hands of the Board of Trustees and takes out their entire recommendation. Mr. Zerr provides response on the impacts of the deferral. Commissioner Worstell-Benjamin responds on what she believes will be obtained, submitted,

- received, or provided. She does not believe that enough information has been provided by the developer. Believes that it is irresponsible to decide.
- j. No further discussion on the motion being presented by the members of the Commission, Chairman Etherington calls the question.
  - k. Chairman Etherington recognizes Mr. Hillman for a question on separation between lots for any development for hole #4. Mr. Shires responds.
  - l. Chairman Etherington recognizes Commissioner Lafata regarding representations provided. Just because the South HOA attorney said something, does not make it fact or legal. Commissioner Worstell-Benjamin responds. Commissioner Lafata indicates agree or disagree, but is seeking confirmation that the South HOA does not have to give their consent to move forward. Mr. Shires and Mr. Zerr confirm the same.
  - m. Chairman Etherington inquires on whether there could be a timeframe for submission of a report from the South HOA regarding their continued concerns and efforts to reach an agreement with the developer. Further, Chairman Etherington requests input from Mr. Shires regarding the timeframe required to complete the reports on density and setbacks that are included in the current motion. Mr. Shires responds that the developer's engineer would be putting together the plan for review by GBA. Would require a month or two, at least a month. Is unsure how to do an impact analysis on existing streets.
  - n. Chairman Etherington recognizes Commissioner Worstell-Benjamin who suggested that rather than "consent" of the South HOA and "consent" from the water district, that the motion reference a "report" from each. Mr. Shires responds that we have no control over those entities and therefore it would be appropriate to pick a date certain for submission and requests 30 – 45 days.
  - o. Chairman Etherington recognized Mr. Zerr who suggested a return date and follow-up meeting in the next 45 days. Mr. Shires confirmed with the developer's engineer that 45 days would be needed but for review it would be 2 months. Final suggestion of 75 days from Chairman Etherington.
  - p. Chairman Etherington recognized Commissioner Worstell-Benjamin who requested the amendment of her motion to incorporate the 75 days.
  - q. Chairman Etherington recognized Commissioner Hunter who seconded the amended motion.
  - r. Suggestion from Commissioner Elsberry to add for review of the South HOA submission provided this evening.
  - s. Final motion read by Mr. Zerr and as voted upon is as follows: **"Motion to continue the matter for no more than seventy-five (75) days subject to the submission of a written report of the South HOA in advance of the meeting taking place, submission of drainage and stormwater management studies, analysis of the potential construction impacts on existing street network, and a report from the water/sewer authority, information regarding the proposed lot sizes, setbacks, home sizes, effects on density, what water volume capacity is presently, and also allowing an opportunity to review the current submission from the South HOA."** Mr. Zerr confirmed with Commissioner Worstell-Benjamin that the motion as stated by Mr. Zerr reflects her anticipated/desired action. Mr. Zerr

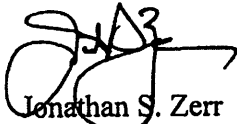
further confirmed with Commissioner Hunter that it reflects his understanding for purposes of the second.

- t. Chairman Etherington calls the question.
  - i. Chairman Etherington Aye
  - ii. Commissioner Smith Aye
  - iii. Commissioner Hunter Aye
  - iv. Commissioner Hillman Aye
  - v. Commissioner Irvin Aye
  - vi. Commissioner Elsberry Aye
  - vii. Commissioner Worstell-Benjamin Aye
  - viii. Commissioner Lafata Nay

**5. Adjournment**

- a. There being no further business to come before the Commission, Chairman Etherington calls for a motion to adjourn.
- b. Chairman Etherington recognizes Commissioner Hunter who made a motion to adjourn.
- c. Chairman Etherington then recognizes Commissioner Elsberry who seconded the motion.
- d. There being no further discussion on the motion, Chairman Etherington called the question.
- e. Question was unanimously approved by a show of hands.
- f. Meeting adjourned at 9:13 p.m.

Respectfully submitted,

  
Jonathan S. Zerr  
Village Attorney