

**VILLAGE OF LOCH LLOYD**  
**PLANNING & ZONING COMMISSION**  
December 5, 2024

A meeting of the Loch Lloyd Planning & Zoning Commission was held on December 5, 2024. Those present included Chairman Chuck Etherington, Commission 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 6:00 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 Hunter who **motioned to amend the agenda to allow for the representative from the South HOA to speak for ten (10) minutes total.**

Chairman Etherington recognized Commissioner Elsberry who seconded the motion.

Discussion on the motion including comments from Chairman Etherington who believed that five (5) minutes would be sufficient. Willing to let the Commission decide the matter.

There being no further discussion on the motion, Chairman Etherington called question.

The motion passed by a vote of 8 to 1 with Commissioner Lafata opposing.

Chairman Etherington recognized Commissioner Elsberry who **motioned to approve the agenda as amended.**

Chairman Etherington recognized Commissioner Irwin who seconded the motion.

There being no further discussion on the motion, Chairman Etherington called the question.

The motion passed by a unanimous vote of 9 to 0.

**Approval of Minutes from 10-10-24**

Minutes were distributed by Mr. Zerr based upon corrections noted by members of the Commission in advance of the meeting. Discussion and review of changes ensued.

Chairman Etherington recognized Commissioner Irwin who **motioned to amend the minutes as presented (replacing “in the Jill” with “Commissioner Worstell-Benjamin”).**

Chairman Etherington recognized Commissioner Elsberry who seconded the motion.

There being no further discussion on the motion, Chairman Etherington called the question.

The motion passed by a unanimous vote of 9 to 0.

**Public Hearing**

- a. Rezoning of Sechrest Continuation of Hearing

Introductory comments and questions from Chairman Etherington including the premature nature of the application due to failure to submit required stormwater impact studies, impacts of the proposed development on existing streets, consent from the water authority, and a mandated consent from the South HOA for access to the streets, entry gate and submission to the South HOA. Chairman Etherington indicated that they would change their approach if warranted and requested input from Village staff including Mr. Shires and Mr. Zerr. Is there merit to the allegations due to being premature. Mr. Zerr suggested that there was no reason to withhold in light of his review of the UDC. Mr. Shires provided additional responses confirming that nothing in the UDO is required. The only requirements identified were in the application. UDO will control. The application has been deemed complete by the Village Clerk who has the authority to determine such. Chairman Etherington confirmed that we can continue.

Chairman Etherington acknowledged the developer's letter requesting to proceed forward with the application as submitted. He then inquired as to whether approval of the application would mean that additional studies and engineering reports would not be required of the developer ever. Mr. Shires responded that such assessment was incorrect and that full details of those studies would be required as part of any plat application. These reports will be required.

Upon further inquiry from Chairman Etherington, Mr. Shires confirmed that the developer will not be able to proceed forward with any construction on the properties if the rezoning is approved without first obtaining plat approvals which will necessitate the submission of the studies and engineering reports. Mr. Shires referenced the conditions of approval that he would suggest, should the Commission be inclined to recommend approval.

Chairman Etherington requested input from Mr. Shires regarding whether the Planning and Zoning Commission will have the ability to review the required studies and engineering reports before the developer is able to move forward. Mr. Shires affirmed. This is not substantive, this is a timing issue.

**i. Presentation by Village Consultant**

Chairman Etherington recognized Mr. Shires for purposes of presenting his report. Mr. Shires presented for the record a group of letters received by e-mail from Sloane Nohe who was opposed to the development. Support letters submitted by Timothy Galgas, Jerry Schaffer, Jeff Wilson, Dara White, and Henry Hiensoff, and Larry Dillon. Email also received from Ernie Dipple but unable to determine a position. Mr. Shires also admitted a letter to the record from South HOA representatives dated December 5, 2024. Finally, Mr. Shires admitted a letter dated October 31, 2024 to Zerr from Ms. Bustamante (counsel for the developer) with additional comments and request to proceed forward with consideration. Mr. Shires noted that the staff report included the letter received from the South HOA at the October 10, 2024 meeting. Finally, Mr. Shires admitted a letter from the developer dated October 17, 2024.

Mr. Shires noted that the application remains unchanged, from prior meeting, but identified the highlights as an overview including the motion from the prior meeting to continue the matter for additional information from the developer which was not provided. The commission also requested information from staff regarding density.

Mr. Shires confirmed that all four areas are asking for an R-1 zoning but suggested that it may be appropriate for the Commission to consider recommending that Areas 1 and 4 have R-1a zoning for the side-yard setbacks. Area 2 and 3 with R-1 zoning. Chairman Etherington recognized Commissioner Elsberry for input on changing the application to R-1a at this juncture. Mr. Zerr expressed issues and concerns from a legal perspective on necessitating republication and / or new notices. Discussion ensued between Mr. Shires and Chairman Etherington regarding the potential R-1a change.

Mr. Shires then provided density calculations for each of the requested rezoning areas and setbacks. Presentation materials provided details on the same.

Chairman Etherington recognized Commissioner Hunter for questions regarding the two (2) lots in Area 4 that did not meet the minimum lot size requirements of .23 acres. Response from Mr. Shires confirming the location of each and size. Mr. Shires noted for the Commission that any preliminary plat application would need to adjust the lot lines slightly in order to be compliant and correct, thereby abiding by the .23 acres minimums. Nothing less than 10,000 square feet would be permitted.

Mr. Shires then proceeded with discussion on the Land Use Master Plan policy considerations for rezoning. Included within the staff report. Chairman Etherington indicated to Mr. Shires that he intends to address those before conclusion of the discussion.

Mr. Shires then presented the approval process. This is the rezoning step. Before anything happens on the property a Preliminary Plat Application would need to be submitted, reviewed and approved both at the Commission level and the Board level. Before sale and building on any lots, a Final Plat Application. Included with the preliminary plat will be the construction plans, stormwater management plan and the engineering details including designs for sewers, roads and otherwise. There is nothing within the UDO for what is required for a rezoning application. We have an application form with checklist items which indicates that the Zoning Administrator (Village Clerk) can determine if those items are satisfied and needed or not.

Proceeding with the presentation, Mr. Shires noted the recommended conditions for approval as outlined in the staff report, with the exception of striking condition #1. A total of nine (9) conditions recommended for the consideration of the Commission if they are inclined to approve the proposed rezoning.

Mr. Shires concluded his presentation by recommending that the Commission ask their questions of him and then allow public comment to resume with a two (2) minute limit. Mr. Shires will make notes of any questions to come back to at the conclusion of the public input and answer them based upon requests from the Commission. This will allow for closing of the public hearing before further consideration by the Commission.

#### **ii. Questions from Commission**

Chairman Etherington recognized Commissioner Irwin for questions to Mr. Shires regarding whether the final plat will come back to the Commission for approval versus going to the Village Clerk. Mr. Shires and Commissioner Lafata confirmed that the Final Plat will need approval by

both bodies, the Planning Commission and the Board of Trustees. Mr. Shires noted that the preliminary plat is where all of the details will be considered while the final plat is just the final legal document that gets recorded. Must be substantially in conformance with the approved preliminary plat.

Chairman Etherington recognized Commissioner Hillman with a question on how the rezoned properties will be shown on the zoning map of the Village. Mr. Shires restated the question and noted that it would be an R-1. For areas with a modification of the setbacks, it would be an R-1 with an asterisk to reference changes in the setback obligations. On two of the drawings Commissioner Hillman noted a reference to “planned residential development”. That can be removed if considered confusing. Often used term with multiple meanings that would be better removed for clarity.

There being no further questions from the Commission, Chairman Etherington reopened the hearing for public comment.

### **iii. Comments from the Public**

Initial instructions provided by Chairman Etherington for public comments including order and time limitations and requested both name and address from any speakers. Hearing reopened at 6:32 p.m.

- a. Scott Beeler, counsel for the South HOA invited to come up first. 5250 W. 116<sup>th</sup> Place, Leawood, KS. Attorney for the Rouse Frets law firm. Understands that the applicant does not wish to add to record. Expressed disagreement as to what the ordinances do and do not say. Staff identifies the application as complete, and UDO does not call for specifics. Mr. Beeler then cited from Section 3.09 of the Village Development Ordinance shall be on a form supplied by the zoning administrator, shall be completed in its entirety. The application provided includes the forms and notations that it “shall be deemed incomplete” and “shall be returned to the applicant”. Mr. Beeler then acknowledged the waiver provision at the end of the application materials but is not advised of any requirements being waived. No writing indicating a waiver of the application requirements.

What we know is that in the State of Missouri they must show a number of items including, the public need for the proposed use. (None exhibited). The extent to which the amendment is in compliance with, or deviate from, the Comprehensive plan. (Plan shows this property as recreational open space and no basis to change it.) Suitability of the property for rezoning. (No studies have been done despite the instructed request from the Commission to the applicant.) Adequacy of public facilities such as sewer and water and other required public services. (No studies or information completed whatsoever.) All elements required in the State of Missouri.

Public health, safety, and general welfare are damaged or could be damaged. (No showing.) Property owners values will not be damaged. (No showing that it would not be damaged.)

The Commission shall not recommend adoption unless it finds that the adoption of the amendment is in the public interest, and not solely in the interest of the applicant. (What benefits? What amenities? None.) This application should be denied.

Mr. Beeler then provided comments on the attitude of the developer. He has never seen an applicant fail or refuse to provide additional information requested of a commission. Additionally, the Commission previously asked the developer to have meetings with the South HOA. They are extremely disappointed to say that no meeting occurred. Refused to provide input. Meeting was scheduled for October 30. Didn't tell the South HOA that they sent the letter to staff. On the 28<sup>th</sup>, the developer unilaterally cancelled.

The South HOA stands in a veto spot. Rezoning could proceed through the Village, but the South HOA has not been told how they are going to protect the amenities. No reference to how it will protect the private drives of the community, the security, the access gates or the amenities of the South HOA. It will simply force the South HOA to say no. It isn't fair. Why now, without the preliminary bridges?

What's helpful to the village? Concerned that we have 4 projects instead of just one. Should have been viewed separately, but that's a decision of the applicant and Village.

The South HOA is not against some kind of development within the Sechrest. It just has to be done in a meaningful, logical way where it is prioritized to protect the investment of the community. Make the application meet or exceed what is already there. Without it, the South HOA cannot provide support.

End with the notion that he was really taken aback by the October 17 letter from the developer which indicated that the developer instructed the staff and Commission to not take account of the South HOA decision. They need the consent and authority of the South HOA to act. The commentary of a neighboring property owner is always relevant. To gauge whether this change will add quality or character to the community is always relevant. Ask for a motion to recommend denial of the application.

- b. Jack Hayward, 730 Suffolk Lane – Wholly supports the HOA. Would agree that the request be denied. Not in the best interests of the residents. Why remove resolution #1? Why change from 5' setback. Does not conform with the requirements of the South HOA for setbacks.
- c. Jim Finney, 16840 Grace Drive – Had a meeting about a year ago regarding property value increases. Comments made a year ago regarding increases in property value. Was still damaged by the closure of the golf course. Hired an appraiser who advised that the value has decreased by \$173,000. That is what the people along the Sechrest have to live with. This development should never be approved without determining the damages.
- d. Sharon Timmons, 16810 Grace Drive – Courage is bravery. Significantly altering the culture and community of Loch Lloyd. Retirement sized homes have helped. Three to

one distance apart proposed. Two dozen petitions to vote no to the plan. Signed and notarized petitions. People who live within 185' feet. Main problem is it does not meet the standards of the master plan. Fails to meet preferences by our own citizens. Density problems. Vote no on the application. 20 years, we were told that the DCCR would apply to anything on the golf course.

- e. Steve Rohleder, 40 Everknoll – Suggesting that the developer is ill-prepared to develop property in Loch Lloyd. Need to deny the application. Public areas that require continuing maintenance will be lost. Backs up to the dam. Three pieces of mechanical equipment that they cannot seem to keep pine trees around. Tried to work with the golf course maintenance group. The point is the developer cannot even keep three pieces of mechanical equipment hidden from view. Suggest that the developer needs to focus for effort on the existing property now.
- f. Dara White, 16848 S. Hettenridge – Reminder of process and orders of things. Rezoning and figuring out the South HOA to talk about all of these things. What is the process? Are we willing to consider rezoning? If so, the South HOA comes in to do their job. Studies will come at the next steps. Processes are in place. We hired them to complete this process. First we need to know if residential is appropriate here. We are getting ahead of the process.
- g. Connie Wong, 16480 Eden Bridge – We hired Mr. Shires and have talked about the UDO. HOA comments the Land Use Master Plan, requires that prior to approval of any rezoning. Mandate requirement to address before the rezoning. Can you undo the rezoning? If its approved, the South HOA will have to fix the problems that were not properly vetted.
- h. Bruce Enright, 16825 Highland Ridge – What's in it for me? Heard a lot about what the developer wants. Nothing about what the residual Sechrest maintenance gets. Challenge them to say...what about the rest of the property. Developer wants to nibble...carving out to make a chunk of money. Commit to what you'll do for the people that are left with it.
- i. Joe Timmons, 16810 Grace Drive – John Nohae letter read into the record. Not in favor of the development. Not conducive to the neighborhood. All requirements should be met before moving forward. 4<sup>th</sup> fairway water problems. Continental engineering on core studies with water on the fairway. Concerns with flood issues.
- j. Robert Eichster, representing his parents at 16890 Meadow Lane – 30-year residents. Live on the #4 green. At that time, they asked Henry Lloyd and was given assurance that the house will always be on the golf course. Nothing in writing, but any developer that would take the course out should and would be run out of town. Now they are proposing this with a higher density. His mother passed away and his father is too ill to attend.
- k. Susan Kitsteiner, 50 Everknoll – Licensed residential realtor/broker for 37 years. Can say with complete confidence and experience that changing what is, will have serious and

explosive consequences to the value of their property. Going from a golf course to regular residential lot will have significant impact on value. Concerns on water pressure issues. Concerns with traffic on Holmes. The real elephant in the room is that it boils down to greed.

- l. Aaron Bowers, 16708 Country Club Court – Wants to reiterate Mr. Beeler’s point and concurs in the same. Issues to focus on. This is not a real or a complete application. No indication of ingress or egress without consent of the South HOA to use the roads. Clear that there’s an attempt to do a bait and switch over which HOA will be involved. Seems premature to act on this. The application presents non-contiguous areas of development that should be a separate and stand-alone applications. Will be challenged to mount if litigation occurs.
- m. Mr. Shires inquired as to whether anyone online was interested in speaking.
- n. Pam Eugster, 16890 Meadow Lane – Father is the owner. She is attending on his behalf. In no way should we be considering rezoning. Believe it is inappropriate. Too dense. No studies completed. Clearly not ready to consider this proposal.
- o. Mr. Shires confirms no one else online desiring to speak to Chairman Etherington.
- p. Mark McAffrey, 121 Highland Ridge – Inquiry on protest petitions being circulated.
- q. Response by Mr. Shires.
- r. Steve Mauer, 1100 Main Street, KCMO – developer representative/legal counsel. Addressing what happens if its rezoned. Not the last time we’d hear from the developer. Preliminary plat is next. That’s when these studies would be completed. This is not the time for those items. Need to do it first before studies on stormwater management. (Reaction from the crowd.) Thanksgiving dinner analogy. Rezoning is the first step. That’s what your UDO requires. Village officers have said so. Nothing is required or that can be done in a legitimate way until we know what can be developed. Water board is going to need to know where houses are going to go. What about the bait and switch? Recommendation #10 says that the developer gets one year to come back with a plat. If they do not. The Village Board reserves the right to come back and zone it back. What they might or would do. If the South HOA is correct, then the answer is easy. Grant the rezoning because the developer cannot do anything (see Condition #10) without the South HOA approval. Why haven’t they started discussions yet. Developer put it in writing. Plain pointed letter. What’s the authority that says the South HOA has to be involved. What they sent back. Mr. Mauer presents a NEW 5-page letter from Mr. Beeler dated November 1, 2024. Letter entered into evidence. The South HOA is not involved for an agreement with the South HOA. Highlighted sections. South HOA declines to participate in what would clearly be a meaningless exchange. Where are we at? We’re at the beginning. We need to know if this property should be rezoned. Otherwise, you’re saying this property can never be developed. The owner has a right to

utilize the property to the highest and best use. Suggested that the Commission has to consider that there are CID bonds required for repayment of the bonds.

- s. Howard Schneiber, 16908 Heather Lane – backs up to the tee box on hole #5. Response to the Thanksgiving analogy from Mr. Mauer.
- t. Frank Jenaski, 65 Street of Dreams – lawyer from the developer is right on the timing of the letters. The South HOA was November 1, 2024 which came after the October 17 developer letter to the Village Trustees.

Seeing no further participants coming forward, Chairman Etherington closed the public comments of the public hearing at 7:20 p.m.

Chairman Etherington then recognized Mr. Shires for answers to the questions posed during the public comments. Mr. Shires noted that the alternative condition of approval #1 with the R-1a zoning. Based upon legal advice, he was recommending removal of condition #1. Simply noting the different setback changes as proposed by the application and the staff report summary. No changes to the application or request with the setback differences by agreement.

Commissioner Hillman inquired on the resolution should they want to approve the application. Included the tent (10) conditions for approval. Mr. Shires confirmed that if they move forward, recommend removing #1.

With no further questions, Chairman Etherington closed the public hearing at 7:25 p.m.

### **iii. Discussion by the Commission**

Chairman Etherington then opened the floor to discussion and questions from the members of the Commission.

Chairman Etherington recognized Commissioner Hillman who suggested that they Commission retain requirement/condition #1 with the R-1a designation recommendation. Mr. Shires strongly recommended against it based upon advice from legal counsel. Mr. Zerr commented that attempts to change the requested zoning now would require new publication, postings and delivery of all the notices.

### **iv. Commission Action**

- a. Chairman Etherington recognized Commissioner Elsberry who made a motion to **recommend to the Village Trustees that the proposed rezoning of the portions of the property locally known as the Sechrest from recreational open space to single family residential R-1 as detailed in the staff report detailed in the staff report to the Commission dated December 5, 2024 and as provided in the application be denied on the basis that among other things, the proposed rezoning does not substantially conform to the Loch Lloyd Master Plan and land use policies.**

Chairman Etherington then recognized Commissioner Hunter who seconded the motion. Chairman Schultz then opened the floor to discussion on the proposed motion.



- b. Question from Chairman Schultz regarding the completeness of the application. Response from Mr. Zerr and Mr. Shires provided response. Is it legally appropriate based upon regulations in the language. From legal's perspective, there is a provision within the application which allows the Zoning Administrator to waive items. It was his understanding that the Zoning Administrator waived the additional obligations. Even if it is not a completed application, the applicant has specifically submitted a written request for the Commission to proceed forward on it, as presented. Mr. Shires noted that the Land Use Master Plan policies are still recommendations, not an ordinance. It is to be considered for or against any rezoning, but they are to be considered. They are not a part of the Unified Development Ordinance. Referencing back to the Land Use Master Plan and its policies is appropriate.
- c. Andrew identified the third condition as the issues for the master plan. Should the Commission wish to produce written findings. Mr. Shires requested input and direction to staff for purposes of completing the proposed findings for delivery to the Board of Trustees. Discussion ensued. Mr. Shires recommended that the Commission direct staff to draft a resolution with specific findings for denial.
- d. Chairman Etherington recognized Commissioner Elsberry who made an amended **motion recommending to the Village Board of Trustees that the proposed rezoning of the portions of the property locally known as the Sechrest from Recreational Open Space to Single Family Residential (R-1), as detailed in the staff report to the Commission dated December 5, 2024 and as provided in the application, be denied on the basis that among other things, the proposed rezoning is not substantially consistent with the Village of Loch Lloyd Master Plan and Land Use Policies, and instructing staff to provide written findings of fact according to the comments of the Commission.**
- e. Chairman Etherington recognized Commission Hunter who affirmed his second of the amended motion.
- f. Chairman Etherington recognized Commissioner Elsberry for additional comments on the proposed rezoning and impacts on the comments/conditions.
- g. Chairman Etherington then recognizes Commissioner Irwin for comments regarding hole #4 issues.
- h. Chairman Etherington then recognized Comments from Commissioner Hunter about making a decision on less than a complete proposal.
- i. Chairman Etherington then recognized Commissioner Worstell-Benjamin who provided comments on her agreement that it should have been four (4) separate applications. Further disagrees that the application is complete. Disappointed that the Commission's time has been wasted. Every recommendation was snubbed by the developer. Aware that

though not technically required, including the South HOA makes practical sense. Seems appropriate to avoid litigation. In complete agreement of denial for this project.

- j. Chairman Etherington then recognized Commissioner Hillman who suggested that the development plan should be approved at the same time as the zoning application.
- k. Chairman Etherington recognized Commissioner Elsberry who noted his disappointment that the Commission did not get input on the capacity of utility services. No one reached out to staff for the water district. Based upon the information he has, he is aware of the limitations of the district in this area.
- l. Chairman Etherington then recognized Commissioner Hillman who commented on the impact of a zoning application submitted by Mr. Mike Neighbors. Staff advised that any application that was being considered tonight should not involve evaluation of a “potential” or “future” application. Not part of tonight’s discussion/consideration.
- m. Chairman Etherington recognized Commissioner Elsberry who reminded the group that they did spend a lot of time on the land use master plan, including the goals and desires of the community. At that time, they deemed the Sechrest property to be best used as recreational open space. Believes it remains suitable for its current uses and adaptable to the use it had for 30 prior years. Abundantly clear for a specific desire of what we wanted to see with the property and if it was included in the application, it would be a different story.
- n. Chairman Etherington recognized Commissioner Smith. He agreed with a lot of the residents in the negatives that they submitted. The issues of lot sizes are too small. Building setbacks which are much less than the surrounding neighborhood. Design-build standards lack review by design review committee. Loch Lloyd is a unique community with uniquely designed homes and large lots, large spaces between homes, lake, and golf course amenities. No more than a few homes line up in a straight row. This is not only aesthetically desirable but provides for better, privacy, security, and tranquility. This changes the whole perspective. It overwhelms the area with 42 homes behind about 12 existing homes. (Three to four proposed homes behind each one existing home.) All reasons that he is against the development.
- o. Chairman Etherington recognized Commissioner Elsberry who commented on the amount of conflict evidenced by the current request. This process is not in the best interest of the community and general welfare.
- p. Motion reread the motion for confirmation from Commissioner Elsberry and Commissioner Hunter. **Motion recommending to the Village Board of Trustees that the proposed rezoning of the portions of the property locally known as the Sechrest from Recreational Open Space to Single Family Residential (R-1), as detailed in the staff report to the Commission dated December 5, 2024 and as provided in the application, be denied on the basis that among other things, the proposed rezoning is not substantially consistent with the Village of Loch Lloyd Master Plan and Land**

**Use Policies, and instructing staff to provide written findings of fact according to the comments of the Commission.**

- q. There being no further comments from the members of the Commission, Chairman Etherington called for a roll call vote on the motion.

Commissioner Hillman	Aye
Commissioner Smith	Aye
Commissioner Hunter	Aye
Commissioner Irwin	Aye
Commissioner Elsberry	Aye
Commissioner Worstell-Benjamin	Aye
Commissioner Lafata	Abstain
Commissioner Schultz	Abstain
Commissioner Etherington	Nay

**MOTION PASSES 6-1-2**

- r. Comments and response from Commissioner Elsberry regarding the requirement for a two-third (2/3) majority vote to approve the application based upon the vote of the commission. Mr. Shires and Mr. Zerr provided confirmation of the same.

**ADJOURNMENT**

Chairman Etherington recognized Commissioner Hunter who moved to adjourn. Chairman Etherington then recognized Commissioner Elsberry who seconded the motion. There being no further discussion on the motion, Chairman Etherington called for a vote. Motion was approved by a unanimous vote of the Commission.

Respectfully submitted,



Jonathan S. Zerr  
Village Clerk