

COUNCIL CHAMBER CITY OF BELLEVUE, CAMPBELL COUNTY, KENTUCKY

MINUTES OF THE SPECIAL MEETING OF COUNCIL JULY 17, 2014

Board of Council met in special session on the above date at 7:10 p.m. The following members answered roll call:

MEMBERS: Guidugli, Helton, Almoslechner, Olliges, Poynter and Rich. Mayor Edward Riehl presiding.

FOR THE RECORD: Mayor Riehl stated the purpose of the meeting as an informational meeting to hear public comment, staff report and presentation from the Ackermann Group. Mayor Riehl stated that those who would like to address Council are limited to 3 minutes, must sign in to speak and only Council may ask questions at the meeting.

FOR THE RECORD: John Yung, Zoning Administrator provided a detailed history and project status report through a slide presentation, outlining the 2002 original development proposal (two 3-story office buildings, three 5-story mid-rise residential buildings, Sixteen 3-story townhomes and one 2-story retail building), construction of phase 1 (residential) in 2004, construction of commercial phase in 2007, 2011 residential revision proposal (218 rental units in one five-story building, 2014 residential revision proposal (124 rental units + 2 townhomes), 2014 Residential revision comparison to 2011 proposal and 2004 approved plan.

Mr. Yung included in his presentation that per the development agreement “changes to the site plan after the date of January 3, 2003 shall be subject to the review and consent of the Bellevue Planning Commission, Bellevue Urban Renewal, the City and any other necessary public regulatory agencies, which consent shall not be unreasonably withheld.”

Mr. Yung detailed the development proposal as it relates to the Zoning Code (Form Based Code) and the 2008 Comprehensive Plan.

Mr. Yung advised that on May 8, 2014 the Planning and Zoning Commission voted 5-2 to disapprove the plan revision with the following findings:

- The building fronting Fairfield Avenue exceeds the dwelling units per net acre maximum for the T5 zoning district.
- The development plan has no retail or commercial aspect.
- The street configuration does not comply with Section 21.2 of the Zoning Regulations.
- The development does not conform to the Comprehensive Plan Objective section to promote a balanced mix of land uses.
- The development does not encourage Fairfield Avenue as a retail corridor.
- Doubling the number of residential units is an unreasonable change to the design of the proposal.
- The development plan does not include applicant’s proposal for signage, lighting and landscape.
- The development plan revision does not include a marina as proposed in the approval of Phase one.

- The developer has failed to provide to the city evidence of a shift in the market that would prevent the construction of condominiums.
- That recent news reports have indicated that the condominium market is rebounding.

FOR THE RECORD: Member Rich requested a copy of the slide presentation sent to Council.

FOR THE RECORD: Dobbs Ackermann representing the Ackermann Group addressed Council with the following:

In 2011 the Ackermann Group entered into a process of mediation. Mr. Ackermann stated that Planning and Zoning could not communicate why the proposal did not meet the development agreement, Comprehensive Plan and the Form based code. Per Mr. Ackerman through mediation a verbal agreement was reached which included:

- 180 rental apartments.
- View corridor from Berry to river.
- Work with City staff and a design review committee established by the City to form an acceptable submittal.
- Re-align a portion of Harbor Greene to connect to Lafayette.
- Build and design a building on Fairfield Avenue.

Mr. Ackermann stated they used as guiding principles; aspects of the Development Agreement, Form Based Code, T-5 Zone and Comprehensive Plan to create plan revision.

Mr. Ackermann spoke in regard to the findings of Planning and Zoning:

- Lighting, landscape and signage plans were intended to follow after approval.
- Density for Fairfield Avenue building does not meet T-5 Zoning – this came out of mediation and design review committee.
- No dedicated retail along Fairfield Avenue – Community room was agreed upon through mediation and Design Review Committee for the apartments to act as commercial space from a view standpoint from Fairfield Avenue.
- Harbor Greene parking does not conform to Form Based Code – agree but this could be easily addressed.
- Plan is not a balanced mixed use – project if viewed as a whole does address a balance of mixed use.
- Density has doubled – Ackermann believes that the project excluding the Fairfield building does conform or under the density based on 8.5 acres of land.
- Marina not included – not aware of a written requirement in any agreement made for a marina.
- Number of buildings issue has been resolved – total number of buildings is the same as originally proposed.

Mr. Ackermann stated that they have been in negotiations with the City for over three years and they feel they have met the principles established by the City and further ask Council to use the tools in place by the City to make a decision not public debate.

City to

FOR THE RECORD: Mayor Riehl opened the meeting to the public who registered to speak:

Rick Ege, 481 Van Voast – stated too many concessions have been made to the developer. Apartment dwellers are transients which will drain city services. Marina is needed as recreation for the City.

Cathy Ege, 481 Van Voast – Appeal of owner occupied properties in Bellevue is what attracted them to Bellevue. Quality of people will decline with rental property – OK for transients to shop on Avenue. Owner occupied property is better taken care of.

Nelson Rennekamp, 101 Harbor Greene Dr. unit 304 – stated his experience as a real estate broker and feels the best use of the land is condominiums. Market is still there for high end condominiums. Promises made to Harbor Greene residents are still not kept. Bond money owed to City – disappointed in staff for not collecting.

Dave Boguszewski, 24 Washington – Developer not living up to his agreement with City for condominiums. Using Form Based Code to get apartments – Over 200 apartments will cause a density problem. Developer should finish Harbor Greene Drive to connect to Lafayette. Encouraged Council to stick to original agreement.

Laurie Stefanou, 101 Harbor Greene Dr, unit 201 – Developer has not lived up to original agreement. Equity loss to residents is inexcusable. Bond money owed to City should be looked at.

Dr. Paul Grunenwald, 211 Eden – Planning and Zoning has done a great job over the years to protect the City from outside developers – voted two times to turn the development down. Urged Council to not settle for second rate and maintain condominiums on this prime piece of riverfront property.

Ralph Schoulthies, 304 Lafayette – Encouraged Council to hold the developer responsible to the original agreement.

Beth Koeninger, 101 Harbor Greene Dr, units 405 & 406 – purchased 2 units at Harbor Greene based on information provided to them by the Ackermann Group. Ms. Koeninger feels her home and property values are now in jeopardy. Why should residents be put in a compromised position because real estate market did not go as Ackermann group wanted.

Clay Stinnett, 299 Eden presented to Council a petition signed by all residents of the WatersEdge condominium community to ask Council to reject and disapprove the application for new construction submitted by the Ackermann Group (application 14-002, State 2 Redevelopment Plan Revision).

Marty Betagole, 101 Harbor Greene Dr, unit 402 – Rental units are in excess in Northern Kentucky, Downtown and Over the Rhine – with Downtown and Over the Rhine being viewed as more desirable this could lead to vacancies in rental units if allowed at Harbor Greene. Concerned that “empty nesters will not want to downsize from over 3000 sq ft to under 1000 sq ft and encouraged Council to not stray from the long term plan to satisfy one developer.

Bruce Ross, 101 Harbor Greene, unit 705 – Residents should have a say in all development. Statistical report provided to Council regarding

large rental properties negative effect on Cities. Mr. Ross encouraged Council to view the Ackermann website which states that the rental properties are sold within 3-10 years or sometimes sooner if profit margin is made. Developer owes a debt to the City and has been sent violation letters by the City which is incurring daily fines. Requests for repairs from Harbor Greene residents have been refused. Residents of Bellevue do not want a large apartment complex.

Karen Brunner, 101 Harbor Greene, unit 803 – Promises by Ackermann Group were made to the residents of Harbor Greene such as pool and cabana – money was held in escrow and the pool was built with the promise that it would be turned over to the HOA – that has not happened and the owners have discovered that the pool was built on Harbor Greene Commercial property. If development is approved, homeowners will have no choice but to share the pool with the apartment dwellers. Ms. Brunner stated numerous property complaints that have been made by the residents against the Ackermann Group, including parking issues and lack of a handicap parking space. Mathews property (124 Lafayette) has not been purchased nor has the bond payment been made. Ms. Brunner questioned the amount of money owed to the City from the Developer and why has the City not sued for the money owed.

Attorney Mark Guilfoyle representing Bruce Ross, 101 Harbor Greene, unit 705 – Provided Council a written report consisting of evidence and proof of objective facts on why Council should turn the development down.

Martha Malone, 101 Harbor Greene, unit 303 – before purchasing unit 303 Ms. Malone voiced concerns about the project completion and was advised by the sales person for Harbor Greene when they purchased that the project would be completed as it is outlined in the financing agreement with the bank.

Dave Slater, 7 Mesh Court – Voiced concern that apartments would depreciate the value of the property once built. Confused as to why the City is working with someone who owes the City over \$200,000.00 – law suit should be filed against developer. Planning and Zoning has done their job in reviewing all the documents, City should not go against Planning and Zoning.

Attorney Brandon Voelker, representing several homeowners of Harbor Greene – Not sure why Council is meeting to hear this stating Council has no authority to rule on Stage 2 development plan – function of Planning and Zoning only. Assume Council is meeting for the purpose of the development agreement. Mr. Voelker stated there is no justification in the development agreement to let the developer out of the original agreement. Line of Credit should have been required per the development agreement.

FOR THE RECORD: Mayor Riehl stated that Mr. Voelker was the last speaker to address Council by signing in to speak. Jason Dufeck, 79 Geiger requested to speak as he was not able to sign in due to the crowd size and police control of the crowd.

MOTION: By Guidugli seconded by Helton to allow Jason Dufeck 79 Geiger to address Council. Motion carried.

FOR THE RECORD: Jason Dufeck, 79 Geiger – requested Council to call for a vote to deny the request by the developer. Promises made by the developer in the past have not been kept.

FOR THE RECORD: Dobbs Ackermann representing the Ackermann Group – Do not expect everyone to understand their need to make modifications but would like everyone to respect the aspect of agreements, codes and plans that are the tools used to make decisions. Regarding public comments:

Ackermann Group sent over 2 years ago a “Notice of Default” in the development agreement. Payment made under duress request that the Development Agreement be rectified based on process they are going through – that has not taken place to date – that is why a payment has not been made.

Regarding purchase of Mathews property (124 Lafayette) – that is a part of the development process to have the property that is able to be developed – that is why the property has not been purchased by the Ackermann Group.

Regarding notice of violations from the City – yes did receive and they are addressing those issues.

Regarding the Market (economy) – some are losing equity some are gaining – no clear facts – does not matter based on the development agreement.

Closed comments with a letter dated December 2011 from City Attorney – Mr. Ackermann paraphrased the letter stating the Attorney reviewed the changes – right of Planning and Zoning as not absolute and that modifications were anticipated. Mr. Ackermann stated the letter was ignored and requests Council approval on the Stage 2 Development Plan as it is the guiding process for the development agreement. This will determine the next steps taken to hopefully come to a successful conclusion.

FOR THE RECORD: Mayor Riehl expressed appreciation to everyone who attended tonight’s meeting as well as those who voiced their opinion.

FOR THE RECORD: Member Guidugli asked Mayor Riehl if through his employer, Arts Rental Tool, is the Ackermann Group a customer of Arts Rental Tool and if it came down to a vote – Could the Mayor vote. Mayor Riehl stated he is not aware if the Ackermann Group is a customer of Arts Rental Tool.

MOTION: By Guidugli by Almoslechner to adjourn at 8:45 pm Motion carried.

Mayor Edward M. Riehl

ATTEST:

Mary H. Scott, City Clerk

I hereby certify that the foregoing meeting was held in compliance with the requirements of the appropriate provision of H.B. 100 effective 6-21-74 also referred to as KRS Ch 61 on this 17th day of July, 2014.

Mary H. Scott, City Clerk