

MINUTES

FRANKLIN CITY PLAN COMMISSION

April 21, 2009

Members Present:

Mike Auger	President
Georganna Haltom	Vice President
Chris Phillips	Secretary
Suzanne Findley	Member
Tim Holmes	Member
Jim Martin	Member
Kevin McElyea	Member
Dr. William Murphy	Member
Bob Swinehamer	Member

Members Absent:

Diane Gragg	Member
Dan Murphy	Member

Others Present:

Krista Linke	Director
Joanna Myers	Senior Planner
Todd Wilkerson	Engineering Department
Lynn Gray	Legal Counsel
Jaime Harshman	Recording Secretary

Call to Order:

President Mike Auger called the meeting to order at 7:00 p.m.

Approval of Minutes:

Kevin McElyea made a motion to approve the February 2009 minutes with the correction of Ted Bishop's name, which was incorrectly listed as "Tim Bishop". Suzanne Findley seconded the motion. All members voted to approve the minutes with the noted correction with the exception of Dr. Murphy, who abstained.

Swearing In:

En masse, Ms. Gray swore in all individuals in the audience who were going to be presenting testimony.

Report of Officers and Committees:

Technical Review Committee Report

1. Todd Wilkerson, Franklin Director of Engineering, stated that the Technical Review Committee had reviewed **Greenwood Machine** – 700 International Drive. This project is located on International Drive just east of US 31. The project is replacing a portion of an existing gravel parking lot with an asphalt surface.
2. **St. Andrews Anglican Catholic Church** – 920 N. Main Street. This project is located on Main Street just south of Oliver Avenue. This project includes a 306 s.f. addition along with the expansion of 417 s.f. of parking lot.

Old Business:

None.

New Business:

PC 2009-02 (SPR): Greenwood Machine

Todd Bemis, Bemis Group, stated that Greenwood Machine is requesting a waiver from installing a public sidewalk at 700 International Drive. He stated that the impractical conditions include low pedestrian volume as there are no businesses in the area that depend on foot traffic. He further stated that the topography of the area also makes the sidewalk installation impractical due to the existing open drainage ditch along International Drive and that the sidewalk would need to cross the drainage ditch that runs along the east side of the property.

Joanna Myers stated that the Staff recommends approval of the request to waive the requirement of installing a public sidewalk along International Drive.

Action taken on PC 2009-02 (SPR): Greenwood Machine

Tim Holmes made a motion to approve the waiver request. Chris Phillips seconded the motion. The motion passed unanimously.

PC 2009-04: Fee Schedule

Ms. Myers stated that the Fee Schedule for the Department of Planning had not been updated since 2004. The Staff has researched information from other communities in the area in drafting the proposed fee schedule. Ms. Myers stated that the revised fees would bring Franklin in line with fees assessed by other communities. The proposed changes are as follows:

- A \$200.00 fee for appealing Staff's decision to the Board of Zoning Appeals has been added.
- A fee for Site Development Plan Review has been added - \$400.00 plus \$10.00 per acre.
- Reinspection fees: \$50.00 for the first reinspection, \$100.00 for second, and \$200.00 for third reinspection.
- Missed inspections: \$150.00
- Expedited building permit review fee: \$125.00 plus \$65.00/hr for reviews over 1 hour for residential permits and \$250.00 plus \$65.00/hr for reviews over 1 hour for all other permits
- Occupying a residence without a Certificate of Occupancy: \$500.00 per day
- Notice of Fines for Violations: \$100.00 per day per violation. Not to exceed \$2,500.00.
- The Land Disturbance Permit line item has replaced a Land Alteration Permit: \$250.00

Lynn Gray questioned whether the Staff ever outsourced expedited site plans. Todd Wilkerson stated that the drainage portion of the site review is outsourced. Ms. Myers stated that building permits are currently able to be expedited but site plans are not.

Mike Auger questioned if a fee should be assessed for administrative appeals. Ms. Myers stated that the fee would be able to cover the additional cost of staff's research and time as the process is the same as any other request that goes before the Board of Zoning Appeals. Mr. Auger questioned the matter of someone not being able to afford the fee. Ms. Myers stated that a request for the fee to be waived could be made through the Board of Works. Discussion was held concerning the Administrative Appeal fee.

Dr. Murphy questioned the amount of the Planning Department budget that comes from fees. Krista Linke, Director, stated that approximately 25% of the budget comes from taxes and 75% from fees.

Bob Swinehamer stated his concern on the increase of permit fees. He stated that the Fee Schedule should read that a response will be received within 2 days of receipt of an expedited building permit application.

Discussion was held regarding the fine for Occupying a Structure without a Certificate of Occupancy. Ms. Myers stated that a \$500.00 fine would be assessed in order to deter people from moving into a structure before the Certificate of Occupancy had been issued. Mr. Wilkerson stated that the Building Official takes responsibility for structures and cannot enter the building after it has been occupied. The Planning Department cannot say that the structure is safe if the structure is occupied before the final inspection. Mr. Wilkerson also stated that if a structure is occupied without the Certificate of Occupancy, the structure may not be able to be sold in the future because the mortgage company may require one. Georganna Haltom questioned if this information was available in writing. Ms. Myers stated that it is on the back of the building permit.

Ms. Myers stated that one of the reasons a reinspection fee has been proposed is that the Department has experienced a substantial increase in the number of reinspections being scheduled and builders are using the City Building Official as a consultant.

Action taken on PC 2009-04: Fee Schedule

Dr. Murphy moved to forward a favorable recommendation to the City Council. Tim Holmes questioned if the motion could be amended to note that the administrative appeal fee be deleted. Mr. Auger recommended amending Dr. Murphy's motion by deleting the administrative appeal fee; indicate that individuals wanting an expedited permit will receive a response within 48 hours, waivers of fees through the Board of Works be added to the Refund line item. Ms. Linke suggested that the fee for Occupying a Structure without a Certificate of Occupancy be amended to read \$500.00 for the first day and \$50.00 per day thereafter.

Dr. Murphy amended his motion to forward a favorable recommendation to the City Council with the following amendments:

- 1) The administrative appeal fee be deleted.
- 2) The expedited review fee shall have language added to state that the applicant will have a response within 48 hours.
- 3) Occupying a Structure without a Certificate of Occupancy to read \$500.00 for the first day and \$50.00 per day thereafter.
- 4) The Refund line item be amended to include "Waiver of Fees".

Kevin McElyea seconded the motion. Tim Holmes-Yes, Chris Phillips-Yes, Suzanne Findley-Yes, Mike Auger-Yes, Dr. Murphy-Yes, Georganna Haltom-Yes, Kevin McElyea-Yes, Jim Martin-Yes, Bob Swinehamer-No. The motion passed 8-1.

PC 2009-05: Zoning Ordinance Amendment to Article 13, Chapter 2- Definitions

Joanna Myers, Senior Planner stated that City Council requested staff to review and amend the current definitions in the Zoning Ordinance as they relate to “family”. Ms. Myers stated that the proposal is to bring the definitions in alignment with each other and to not have a definition define another definition. The definition of a boarding house needs to be clearly defined. The proposed amendments must be looked at in regards to all types of situations including families, co-habiting individuals, and different housing practices in communities. Ms. Myers stated that the new National Guard Armory must also be kept in consideration in regards to soldiers needing housing as well as college students and housing for displaced homeowners from disasters.

Ms. Myers presented information in regard to how the proposed definitions would be applied and enforced.

Mr. Auger questioned how the Staff would be able to determine how many people are living in a house. Ms. Myers stated that is most difficult aspect of regulating who lives in a house. The number of bedrooms would reflect how the structure is assessed by the Johnson County Assessor by referencing the tax records. Mr. Auger stated that he felt that looking at the number of people living in a building is only one of about 30-40 things that need to be looked at when trying to achieve the goal of the modifications. He stated that there is too much emphasis on the number of people in a building and not enough emphasis on what is going on in the area.

Ms. Myers stated that the definition of a boarding house is not going to solve the current problems. She stated that the current ordinances and codes can address the issues that have been raised in regard to trash, noise and parking. The proposed amendments are being brought before the Plan Commission as requested by City Council.

Craig Wells, City Council member, stated that the issue arose from some constituents of his and the concern of the number of homes that have been converted into rentals for college students. The problem has continued to worsen over the past several years as homes are purchased for the use of several unrelated people to live in not as a family.

Mr. Wells stated that he had some concerns with the Staff’s proposal, such as how the 1.5 people per bedroom was arrived at. He stated his concern over the way the proposal is being interpreted. He recommended that a different amendment to the ordinance is created.

Ms. Myers stated that currently “family” is defined as one or more persons occupying a dwelling unit as a single housekeeping unit and therefore using common facilities for cooking, sanitation and gathering. The current definition for housekeeping unit is a group of individuals functioning as a single household making use of a single kitchen and other family quarters. She stated that the difference in interpretation lies in what a “single housekeeping unit” and “functioning as a single household” means. The Planning Department has interpreted single household as a group of persons who live together, pay their bills, have trash service, have a mailbox, share the kitchen, bathroom, & living room and may have separate bedrooms or bunk together. The other interpretation for single household is in regard to sharing the bills. She stated that for college students, generally each person pays a portion of the lease, the phone and the electric.

Discussion was held concerning rentals in single family neighborhoods.

Mr. Wells stated that if we continue to allow our neighborhoods to deteriorate we are defeating the purpose of building up our community. Suzanne Findley questioned as to whether the actual problem is with the use more than the number of people in the dwelling. Mr. Wells stated that the use of a large family in a house versus the same number of unrelated people in a house is very different.

Mr. Wells stated that he did not think that the proposal solves the problem. He stated that he would ask to table the issue.

Mr. Auger stated that he did not believe that the number of people in the house is the problem. The problem is identifying the problem. Ms. Gray stated that the ordinance is fine but enforcement is a different issue.

Dr. Murphy made a motion to forward an unfavorable recommendation to City Council. Ms. Gray reiterated the City Council minutes and their request of the Plan Commission. The options for the Plan Commission are to keep the current ordinance, say the proposed amendment doesn't define dwelling unit or boarding house, or start over.

Krista Linke, Planning Director, stated that if the amendment was sent to the Council with an unfavorable recommendation then nothing had been accomplished.

Bob Swinehamer stated that the City cannot dictate who lives where but only land use. He stated that none of the complaints that were heard by City Council had to do with zoning.

Mr. Wells stated that the City of Bloomington just brought a case to the Indiana Supreme court concerning this and won concerning the number of students living in a household.

Mr. Swinehamer stated that he thought that Mr. Wells didn't agree with the Staff's proposal because of the issue with the formula for the number of people per house.

Mr. Wells stated that what the Staff is proposing is a much higher number of unrelated persons living in a house than Bloomington has. Ms. Gray stated that Bloomington is divided into different zones, with each zone having a different number of people.

Mr. Wells stated that municipalities can regulate who can live in a structure. Mr. Auger stated that from a legal standpoint, it would present a very narrow issue as to whether or not that ordinance violated the privileges and immunities clause of the Indiana constitution. Mr. Auger stated that whether there are a 10 or 2 college students living in a house together, there is still going to be the same issues that arise in regard to trash, noise and parking.

Georganna Haltom questioned whether there were ordinances in place to take care of trash, noise and cars. Ms. Myers stated that there are. Ms. Haltom stated that those are issues that someone else should be taking care of and resolving other than the Plan Commission.

Jaime Harshman, 720 E. Jefferson, stated that she currently lives next to a fraternity house and does not have major issues with them. She stated that if a situation arose she was able to resolve it by communicating with the students.

Mayor Paris stated that he felt that the current ordinance needs to be enforced better. He suggested that the ordinance state that no more than 1 unrelated person per bedroom shall occupy a structure. He stated that any problems in regard to parties will not be solved with this ordinance.

Action taken on PC 2009-05: Zoning Ordinance Amendment to Article 13, Chapter 2- Definitions

Mike Auger made a motion to forward an unfavorable recommendation to the City Council. Jim Martin seconded the motion. Jim Martin-Yes, Kevin McElyea-Yes, Dr. Murphy-Yes, Mike Auger-Yes, Suzanne Findley-Yes, Georganna Haltom-No, Chris Phillips-No, Bob Swinehamer-No, Tim Holmes-No. The motion failed.

Tim Holmes made a motion to forward no recommendation to the City Council. Dr. Murphy seconded the motion. Kevin McElyea-Yes, Tim Holmes-Yes, Dr. Murphy-Yes, Jim Martin-Yes, Bob Swinehamer-No, Georganna Haltom-No, Chris Phillips-No, Suzanne Findley-No, Mike Auger-No. The motion failed.

The case was tabled. The case will be discussed at the May meeting.

Mr. Auger stated that Mr. Wells and the City Attorney should work together with staff to propose a revised amendment.

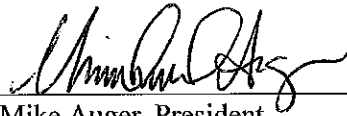
Other Business:

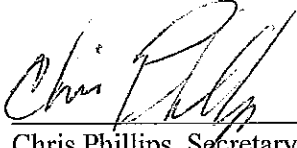
None.

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 19th day of May 2009.


Mike Auger, President


Chris Phillips, Secretary