

**MINUTES OF A CONTINUATION OF A PUBLIC HEARING HELD BEFORE THE PLANNING COMMISSION OF THE CITY OF INDEPENDENCE, OHIO, TO CONSIDER THE REQUEST BY LEBEC HOMES TO APPROVE THE PRELIMINARY PLAN OF THE MEADOWS, PHASE 2 TO SUBDIVIDE A PARCEL INTO 7 LOTS AND THE EXTENSION OF MACKENZIE DRIVE 150' WITH A CUL-DE-SAC.**

**HELD IN COUNCIL CHAMBERS AT CITY HALL  
6:30 P.M., TUESDAY, MARCH 4, 2008**

Acting Chairman Vice Mayor Blaze opened the Public Hearing at 6:43 p.m. and the following responded to Roll Call:

**PRESENT:** Gregory Kurtz, Mayor  
Vern Blaze, Vice Mayor  
Jerry Skuhrovec

**OTHERS**

**PRESENT:** Don Elewski, City Engineer  
Gregory O'Brien, Law Director  
Ron White, Executive Assistant  
Don Ramm, Engineer/Public Service Coordinator

**ABSENT:** Dale Lytkowski, Chairman  
Jack Shallcross  
Jeffrey Markley, City Planner

Acting Chairman Vice Mayor Blaze stated that they postponed this hearing in February of this year. The last time that Mr. Doubrava was before the Commission was in January of this year. Mr. Doubrava at that time presented the plan of what he wanted to do. Right now the Commission is at the point of trying to deal with the water drainage issues.

Mayor Kurtz stated that by way of information, the applicant has obtained options on properties to extend and improve the existing subdivision of Meadows Phase 2 and to add seven lots. One of the issues that the City has been reviewing deals with drain water in the area, on both the applicant's property itself and the contiguous properties. What the City has done is attempted to meet with the neighbors, some of the neighbors that will be part of a larger master plan for dealing with water management in that area. As late as last week, a majority of them have indicated their willingness to listen, participate; but it is going to boil down to something that makes sense not only for Mr. Doubrava and his drain water issues, but the City and its' concerns.

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One of the issues that was brought up by the City's Engineers office was that they have to improve the method of managing the drain water on the property. It doesn't meet the code. Mr. Doubrava believes that everything does meet the code. They have to take care of the seven lots in that area as far as detention.

Mayor Kurtz asked Don Ramm to come up and speak. Mr. Ramm stated that he has had some brief conversations with the City Engineer, Elewski and Associates. Primarily his focus was centered around the water quality aspects of the code and the specifics of 1380 and 1381 for the code requirements of water quality of the geometry of the pond itself. Mr. Ramm stated that if you look at what was submitted, there is probably some things that need to be tweaked. The result of that could greatly impact the footprint of that pond. Mr. Ramm does not think that the applicant can meet the code requirements to fit that pond in that tight little space that is currently shown. Mr. Doubrava stated that it depended how the detention basin was going to end up. Mayor Kurtz stated that what Don is saying that in the review it doesn't meet the code as it is laid out here. But Mr. Doubrava is right in that if the City is able to get some participation of some of the neighbors as a way to better manage and meet the City code and also solve some of the City's problems; that is the critical path the City is going down right now. Mayor Kurtz stated that he did meet with the neighbors, and two of the three expressed a willingness to participate. It is going to depend on the impact on their property and how they get compensated. The Mayor is waiting for the last neighbor to say that they are willing to participate.

The next step is that it would be appropriate for Mr. Doubrava and his professionals to meet with the City's people and come up with a unified approach to address Mr. Doubrava's concerns with respect to making sure that he has the number of lots that are developable, address the City's concerns and see if he can find a common ground in terms of what is best for the subdivision, the City's need for water management and the least way to impact all of the properties. It may need to be adjusted somehow with the lot that Mr. Doubrava owns. As long as the neighbors are willing to participate, if an economic model and functional model can be put together which is fair to everyone, then a solution will have been found. Mr. Doubrava stated that he has no problem with that. The Mayor would like Mr. Doubrava to, before the next meeting, meet with the City's engineering people, find a solution that meets the code and still works for Mr. Doubrava and then it would be presented in a final forum to the neighbors. At that point, it can be

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found out what it is going to take to have this new solution reach a conclusion. The Mayor stated that this is Plan A. If this cannot be done that way, then the Mayor has to find some alternative methods to solving Mr. Doubrava's problem. Hopefully it will be consistent in solving the City's problem.

Mr. Doubrava stated that he knows that they can get the detention what it has to be to maintain the seven lots that are there that won't impact anything because they will have it controlled where it is supposed to be. He needs approval moving forward so he can act on the purchases on the properties of the surrounding neighbors. Mr. Doubrava has agreements with them where he has to purchase the property. Mr. Doubrava stated that his lawyer was involved with the Law Director. For some reason, there has not been any information received from the Law Director. It has stopped. Mayor Kurtz stated that the legal side needs to be cleared up whatever the missing information or whatever is needed to move forward; and also the drain water. What Mr. Doubrava needs to do is be able to share with the City's engineers the code and where there is a disconnect if there is one based on the plan presented. If it doesn't work the way it was designed and it has to be modified, that is where the City will bring extra effort into play. The Mayor has already set the stage to see if they can bring everybody together to reach an agreement or draw a conclusion that is good for Mr. Doubrava, the neighbors and the City. Then Mr. Doubrava will see how the economic model will break down. The Mayor will then be in a position to go back to Council and let them know where everyone is at. If the Mayor can't make that all work, then Mr. Doubrava will have to find a way, with the City's help, to make this work functionally.

Mr. Doubrava stated that if they get their situation together with the detention and where it has to be up to code, and meet with the City engineers soon so they can have time to put it all together. At least if Mr. Doubrava doesn't get to Plan B because of whatever reason, there are the seven lots and the detention totally taken care of; and there is no impact on the other area because they are retaining the water that has to be. The Mayor stated that there are two aspects – retaining and quality. Mr. Doubrava will have to manage both of those from now on. Mr. Doubrava stated that if they are right at Plan A, then Plan B happens, then Mr. Doubrava could shrink his and make an adjustment at that time. Mayor Kurtz stated that everyone is going to sacrifice a little bit and benefit a little bit. That is the goal. The Mayor is asking for cooperation because one of the components is actual construction. Obviously, if the City is going to do something they

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are going to do it coming off of Mr. Doubrava's property. It just makes sense if the City is going to do anything even off site or on expanding site, it would make more sense to do it coming off of the cul-de-sac while constructing of the infrastructure and the utilities than it is trying to come off of Brookside or anyplace else. The Mayor stated that is why he is trying to see if they can draw together at the same time because then in Mr. Doubrava's plans,

when he goes out to bid, he can incorporate any changes in that process. The Mayor is going to try to draw a conclusion with the neighbors within the next couple of weeks. The goal would be that if Mr. Doubrava is in compliance and has satisfied all the concerns and questions, the Public Hearing can be closed and go on to the next phase of the approval process. The only point that the Mayor raises is that one of the concerns that was brought up dealt with the water on the north side. The Mayor doesn't have the answer. Mr. Doubrava is taking the water from the creek, putting it in the pipe and discharging off the property. It had to do with Mr. Doubrava piping in the creek and creating two buildable lots over the pipe. The question came into play, and the Mayor would like Mr. Doubrava to address it – for the two houses that are built on either side of the existing creek, what type of foundations or how extensive would the foundations have to be or Mr. Doubrava should make sure that whatever he does that he addresses the issue of the foundations and the soils and everything for those properties. What will happen is that they will get this done and approved, Mr. Doubrava will design and develop the subdivision. Mr. Doubrava will build the houses, and down the road someone will knock on the Mayor's door and say that their foundation is cracking. Mr. Doubrava stated that he understands that. Acting Chairman Vice Mayor Blaze stated that they won't know that they bought a lot or bought a house that was built on a lot that a creek had run through at one time. Mr. Doubrava stated that the water that comes out of that pipe, at the worst case scenario, it is minimal. Mayor Kurtz stated that the issue is not the creek anymore, you will be taking the creek and putting it in pipe. Then Mr. Doubrava will change the grade a little bit to fill in that property. When you put a foundation on filled in property, you will have to dig deep special footers. All the Mayor is suggesting is that Mr. Doubrava have that built into his plan so that anyone that would buy those two lots, the City has protected them. It is not a big deal, but it is something the Mayor wants in the record somewhere. Mr. Doubrava stated that the Mayor knows his record in Independence, and he doesn't do stuff like that; and if something would happen he would take care of it.

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Mayor Kurtz stated that if the issue of drain water can be addressed within the next thirty days, that would work. As long as Mr. Doubrava meets the code, with or without the neighboring properties; ideally for the City, it would be nice to do a joint venture with the water management issue. It is important in looking long term. The Mayor thinks that thirty days is enough time to try and get that handled. The Mayor stated that Don Ramm will work with Mr. Doubrava and Don Elewski to review, go through, plan and design and make sure that everyone is on the same page. Acting Chairman Vice Mayor Blaze

stated that what happens is kind of predicated on what the City hears from those neighbors. The City almost has to get the answer from the neighbors to give Mr. Doubrava the direction that he needs to finalize it. The Mayor thinks that Mr. Doubrava can help because if the City has to do something with some of that property to entice the one neighbor to participate; Mr. Doubrava has the adjoining property. The Mayor does not know if that is a potential solution, but you have to be creative in these situations. Mr. Doubrava wants to get himself straight with what he is doing with his retention situation and water control. That would be the A Plan. Then if B would come into effect, Mr. Doubrava could make adjustments, then he can get approval. The Mayor is optimistic, and he is working towards B. The best time to do anything for water management and mitigation will be with Mr. Doubrava's subdivision because all of the work can be done from Mr. Doubrava's property. If the City has to trade some property, maybe that's one of things to look at. The Mayor does not have a solution. He is trying to say that everyone has to make something work because the Mayor has a water situation further down that he has to manage. Mr. Doubrava will get everything to code just in case Plan B doesn't happen. The Mayor wants Mr. Doubrava to think about Plan B.

Mr. Doubrava just wants to understand that they can be approved at the next meeting if they have their stuff together so they can then move forward and act with the residents he has agreements with so he can purchase it; and everyone can be a little bit happier. The Mayor stated that his goal is that within thirty days this can be cleaned up. If there can be some solutions or at least a direction for the solution; that would be good enough for the Mayor. Everyone began speaking at once.

Mr. Doubrava's engineer stated that their goal is to design something that would take care of the seven lots. If there is something they can improve upon, that would help. Mr.

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Ramm asked about the north side if there is anything such as water quality that is capturing the rear yard runoff that is going toward the ravine and coming off the yards. Mr. Doubrava stated that it never was an issue because everything goes to the creek. Mr. Doubrava will address all of that. The Mayor stated that if Mr. Doubrava meets with the City Engineering this week, and in the meantime the Mayor will try to get some decisions made by the neighbors; and then this thing can come to a head.

Law Director O'Brien stated to Mr. Doubrava to tell his attorney on how he works that out whether it is Plan A or Plan B is really the only thing the Law Department is concerned with. There is a standard easement that Mr. Doubrava will grant to the City which allows the City to get on and do whatever they need to do. Law Director O'Brien stated that they just need to establish what area they are talking about. The Law Director assumes that the City will still want the B property in the future. The Mayor stated that the key is accessibility through the subdivision. Law Director O'Brien stated accessibility and use for the City's purpose. Everyone began speaking at once. The Mayor feels everyone is on the same page, it is just a matter of seeing everyone come together. Mayor Kurtz stated that this is the only outstanding issue that he is aware of that the City has reviewed at this point.

The Mayor asked Mr. Doubrava if he had a Homeowners' Association and if it was active. Mr. Doubrava stated that his daughter is in charge of it. They take care of the grass cutting and stuff. Whatever has to be maintained there is taken care of with the Association. They were in contact with the Law Director because they were concerned about the second phase; if they were going to add it to the first or keep it separate. Law Director O'Brien stated they can have a separate, standalone Homeowners Association for the seven houses. They would have that cul-de-sac in the middle, but the bigger issue is the maintenance of the retention. The Law Director asked Mr. Doubrava how big the houses were going to be. Mr. Doubrava stated that they would be 2,400 sq. ft. for a ranch and 3,000 sq. ft. for a colonial. The Law Director believes that the maintenance fee is really low. Mr. Doubrava may want to step it up a bit to get a fund. The Law Director stated that Mr. Doubrava might want to have a separate Homeowners just for those seven. Acting Chairman Vice Mayor Blaze asked if it was a mandatory Homeowners' Association. Mr. Doubrava stated that was the way it was set up in the first phase. It is \$150 per year. It is enough to maintain everything. The Law Director asked if there is a

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current fund. Mr. Doubrava stated that he did file a Homeowners' Association with the State. The Law Director stated that it would all depend on the Engineering Department or Service Department who would give a cost for the retention maintenance. Mr. Doubrava thought that they were putting it all together as one because there is no stopping the water from the first phase going into the second phase. The Mayor thinks it would be better if everyone is part of the same subdivision. Keep it simple is what the Mayor would do.

The Mayor wants to conclude for anyone who may have come in late; next week or later this week the LeBec people will meet with the City's Engineering people and draw conclusions relative to the drain water management and quality of management. The City has presented some options. Those options are going to be reviewed with respect to how to manage that water permanently. The City has an issue further down the creek that they have to deal with. What the City is trying to do is see if there is a way to have LeBec participate in the larger solution, a more comprehensive solution than just the seven lot subdivision that is proposed. So what they have done is they have put several engineering packages together, proposals, and projects or importances that the City deals with the water down the creek further, but that it is done as part of the construction process of this approval of this subdivision. It involves people that are not participating in the subdivision. The City has met with the neighbors with several design options. What the City is going to do now is between LeBec's engineers and the City's engineers. They will meet and come up with something together that makes the most sense for both parties. Then everyone will come back, and the Mayor's goal is to meet with the neighbors that are directly affected and see if he can put a deal together to incentivize them to participate. If they do, then LeBec and the City will participate in putting this together; and then he will get his approval. If in the event the Mayor can't make it work with off site mitigation with the neighbors and LeBec has to deal with his own on his property; then that is the first course of action, that is Plan A. If he can do that and satisfy the City's code and requirements, he is certainly entitled to do that. Plan B would be to do this with some of the neighboring properties so that a more comprehensive approach can be taken to managing the City's drain water issues in that area and further northeast as the water goes underneath Pleasant Valley in the Midland area. So if all that can work and everyone is satisfied, then the City will approve this subject to Plan B; and the City will participate to a certain extent. Then the problem will be solved that is greater than just the LeBec situation. That is the goal. That is what the City is trying to

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do; and that is what's taking a little longer. The goal is to have all of the drain water issues and potential neighbors participating resolved by next week at least in putting this together. If they do that, then the Commission will look at Plan A or Plan B. The Mayor believes that Plan B will be better. Mr. Doubrava asked the Mayor if he agreed if Plan A starts off with everything being together, that doesn't mean Plan B is dead. The Mayor stated that the only reservation would be that the more comprehensive construction of a detention/retention pond would be off the new subdivision. While they are doing the excavation and putting the utilities in for the new subplot; that would be the appropriate time to do this. It would be retention differently than what Mr. Doubrava planned. If that is the case, the City would like to do it during that time period. Obviously this is going to boil down to the impact on the property, the economic package and how it all plays together. If it works it works; if it doesn't work, the City doesn't get condemned for trying.

The Mayor stated that the goal is to resolve all of the engineering issues by the next meeting and then Mr. Doubrava will be in a position to then close on those properties and move that forward. The Mayor stated that then Mr. Doubrava will go through a final permit process, Council approval and then construction should start in spring or summer. It has taken longer from the City's perspective because after the flood of 2006 if they don't look to the bigger picture when they have an opportunity to manage some of these situations; the City isn't doing its job. The Mayor apologizes for those people who are waiting for money. It is not something that the City would normally be involved with, but because of the circumstances further down the creek; the City has to look at it from a bigger picture.

The Mayor stated that the goal is to try to get some conclusion or at least direction on this issue by next meeting. Acting Chairman Vice Mayor Blaze stated that the continuation of this Public Hearing will be on Tuesday, April 1, 2008 at 6:30 p.m.

**A motion was made by Acting Chairman Vice Mayor Blaze, seconded by Jerry Skuhrovec, to continue the Public Hearing until Tuesday, April 1, 2008 at 6:30 p.m.**

**ROLL CALL:           Yeas: Blaze, Skuhrovec, Kurtz  
                              Nays: None  
                              MOTION CARRIED**

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Mayor Kurtz stated that usually the Commission does not make a decision at the close of a Public Hearing on that evening; but the fact that this subdivision Public Hearing has been stretched out for so many months; the Mayor isn't saying that it is a hard and fast rule. Acting Chairman Vice Mayor Blaze stated that the Commission could reserve that right to take action in April to facilitate it if the City's professional staff is on board with everything. The Mayor stated that if anyone has any issues between now and then, call his office; and he will try to get an answer for them.

**There being no further business, the Public Hearing was continued as stated above.**

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**Vern Blaze, Acting Chairman**

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**Debi Beal, Planning Commission Clerk**

Minutes Unapproved at Time of Release 03/07/08