

**Rockville Planning Commission
Public Hearing and Regular Meeting
Rockville Community Center, Town Hall
September 14, 2021 – 6:00 pm**

1. **CALL TO ORDER – ROLL CALL:** Chair Jane Brennan called the meeting to order at 6:00 p.m. Present were Cheryl McGovern, Linda Brinkley, Tim Arnold, Brooke Wright, and Garth Tyler. Ken Rybkiewicz appeared via Zoom. Town Attorney Dayton Hall was also in attendance. Town Clerk Vicki S. Bell recorded the meeting.
2. **DECLARATION OF CONFLICT OF INTEREST WITH AN AGENDA ITEM:** No conflicts were declared.
3. **PUBLIC COMMENT:** There were no public comments.
4. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A WALL PERMIT FOR DOYLE TIMMONS AT 449 W. MAIN STREET, ROCKVILLE CONTINUED FROM THE AUGUST 10TH MEETING – DOYLE TIMMONS:** Chair Brennan explained that it has been our usual procedure to approve a permit pending receipt of missing documents. But the wall permit for Mr. Timmons was continued to the next meeting. Upon receipt of Doyle's engineering report the Town Office had the engineering report reviewed and signed off by the building inspector and then proceeded to issue the wall permit. Chair Brennan indicated that a vote is still needed on this matter.

Chair Brennan **MOVED** to approve the application for a retaining wall permit, submitted by Doyle Timmons at 449 W. Main Street, as it was made complete by including the required engineering report. This wall does not conflict with Land Use Code 8.20.3.1.6, nor does it conflict with the General Plan. The building inspector also approved this application. Cheryl McGovern **SECONDED** the motion.

VOTE on Motion:

**Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye**

The motion passed unanimously.

5. **Consideration and possible recommendation for a Request for Reasonable Accommodation by Doyle Timmons at 449 W. Main Street, Rockville continued from the August 10th meeting – Doyle Timmons:** Chair Brennan reported to the Commission that Mr. Timmons asked that this item be postponed until next month's meeting. Clerk Bell further clarified that the email Mr. Timmons sent stated that they are making changes to this request and that they plan to present next month. Attorney Hall advised that it would be appropriate for someone to make a motion to continue this item until next month, followed by a vote.

Cheryl McGovern **MOVED** that due to Mr. Timmons' desire to postpone the request until next month, that they continue it until the Town hears from him. Linda Brinkley **SECONDED** the motion.

VOTE on Motion:

**Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye**

The motion passed unanimously.

6. CONSIDERATION AND POSSIBLE RECOMMENDATION OF THE APPLICATIONS FOR ONE (1) SUBDIVISION SUBMITTED BY BUSH AND GUDGELL, INC. CONTINUED FROM THE AUGUST 10TH MEETING:

a. A MAJOR SUBDIVISION, RACHEL D. HIRSCHI ESTATES, OF APPROXIMATELY 97.49 ACRES AT APPROXIMATELY 100 WEST GRAFTON ROAD INTO THREE (3) PARCELS:

The representatives from Bush and Gudgell were not yet present. Clerk Bell explained that they were not made aware of the postponement of the previous agenda item and may have delayed their arrival accordingly. While the staff attempted to reach the representatives, Attorney Hall explained that the Chair has the discretion to take agenda items out of order in a situation like this.

Cheryl McGovern **MOVED** that if they need to be present and they are not here, that this item be continued to the next meeting.

Attorney Hall clarified that technically, the representatives did not need to be present but if the Commissioners have questions for them then it is a valid motion. He went on to say that if they did not have questions that they could discuss the application and vote on it as well. Chair Brennan chose to move on and allow the representatives from Bush and Gudgell some more time to arrive.

Having not received a second, the motion failed.

7. APPROVAL OF THE MINUTES FOR THE AUGUST 10, 2021, PUBLIC HEARING AND REGULAR MEETING: Chair Brennan asked the Commissioners if they had any problems with the minutes of that meeting. Cheryl asked if the typo had been fixed. Clerk Bell responded it had. Chair Brennan indicated that the name of Mr. Timmons' attorney in item 7 was incorrect. Clerk Bell agreed to see to those corrections.

Linda Brinkley **MOVED** to approve the minutes with the above corrections noted. Tim Arnold **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion passed unanimously.

INFORMATION / DISCUSSION / NON-ACTION ITEMS

8. TOWN OFFICE REPORT

a. APPROVAL OF A SIMPLE BUILDING PERMIT FOR DOYLE TIMMONS FOR THE CONSTRUCTION OF A PUMP HOUSE WITH ELECTRICITY.

9. PLANNING COMMISSION ADMINISTRATIVE BUSINESS

10. NEXT PLANNING COMMISSION MEETING WILL BE OCTOBER 12, 2021. Chair Brennan asked if all Commissioners would be available for the next meeting. There were no conflicts reported.

6. CONTINUED FROM ABOVE: Chair Brennan revisited this item as all others on the agenda are complete while staff looks again to see if the representatives from Bush and Gudgell have arrived. Clerk Bell explained to the Commissioners that the reason that they are probably not here yet is because they most likely looked at agenda and assumed that Mr. Timmons' items would be lengthy, like the previous month, not knowing that they were postponed. Cheryl McGovern replied that Bush and Gudgell changed the plat, then went on to say that we should not assume what they are thinking.

Cheryl **MOVED** to continue item number six until next month's meeting on October 12, 2021.
Tim Arnold **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion passed unanimously.

Attorney Hall informed the Commissioners that as a practical matter he didn't generally attend the meetings and did not know if he would be asked to attend the next meeting. Even though action on item No. 6 had been continued to the next meeting, since he was already in attendance, he offered to answer any questions they may have about it.

Linda asked if the only change since the last meeting was that the Hirschi's property was being split into three parcels instead of four? Attorney Hall affirmed this and went on to inform the Commissioners that he had also made some revisions to the Draft Development Agreement.

Cheryl asked if she could submit her questions in writing. Chair Brennan denied her request as the Town was paying Attorney Hall to be there right now and felt it more economical to verbalize the questions right now. Cheryl asked how they had gotten to a final plat without a preliminary and a pre-application process for a major subdivision. Attorney Hall informed her that while that would be the normal procedure, in this case the owners came in and requested final approval subject to a development agreement. He also explained that the Town was permitted to deviate from normally applicable ordinances under a development agreement as long as there is a public hearing and notice. Linda asked to verify that this is what they had done with the Perry subdivision. Attorney Hall agreed that it was.

Cheryl asked what it meant when the Code asks for "sufficient documentation to show the subdivider has a vested interest in the subject property." Attorney Hall told her that proof of interest meant that you have ownership interest in the land. Cheryl asked how the Hirschi's are able to have some of the requirements waived when the Code says that cannot happen for a major subdivision. Attorney Hall answered Cheryl by explaining that the Development Agreement he drafted addresses all the things that would normally be required for this subdivision and it states that the Town is waiving those, but any future owner will be subject to those requirements. Cheryl continued to argue that waiving these things is not allowed. Garth broke in to clarify that in his experience these requirements are not being waived. They are being transferred to the buyer and the buyer will be subject to those requirements if they decide to build. Attorney Hall agreed with Garth's assessment.

Linda declared that an owner should be allowed to split up their property and sell it. It should only be subject to all the requirements when someone wants to develop it. Attorney Hall pointed out that the representative for the applicant had arrived so they could ask him their questions. Cheryl pointed out that they had already moved and voted to continue their agenda item until next month. Attorney Hall disclosed that the Chair had the power to rescind the motion since the meeting wasn't over and all Commissioners were still present.

Chair Brennan **MOVED** to rescind the motion to continue item No. 6 until next month as the applicant's representative had arrived. Linda **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Nay
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion passed with four Ayes and one Nay.

Before the meeting resumed with agenda item No. 6, Cheryl questioned the legality of going back to an item after they had voted to continue it until the next month. Chair Brennan deferred to Attorney Hall, who explained that General Parliamentary Rules are used and while there are some restrictions, it is certainly permissible to make and then rescind motions when all the Commissioners are still in attendance and especially since we are only 30 minutes into the meeting.

Chair Brennan resumed the meeting by re-calling item No. 6. Ryan Lay came forward to speak on behalf of Bush and Gudge, who is representing the Hirschi's in this matter. Chair Brennan asked what changes have been made to the application since last month. Ryan explained that the change is splitting the land into three parcels instead of four. He disclosed the reason for this was to provide some quality home sites for people. The larger parcels would allow more options for access as well as more usable area in each one. Ryan also stated that they have seen the most recent version of the Land Development Agreement and they have no problem with it. Chair Brennan asked Ryan to verify that they are not planning to split and sell the parcel so that a housing tract could be built on it. He remarked that they never talked about wanting to do anything like that and in his opinion, all the Hirschi's were interested in doing with their parcel was splitting it into more manageable pieces. Chair Brennan proceeded to go around the room and ask each Commissioner if they had any questions for Mr. Lay. Ken did not have any questions at that time.

Cheryl asked where the access for lot three would be. Ryan showed the Commission a two-acre area in the corner of lot three that could be used to provide access to that lot. Cheryl was convinced that area belonged to another owner and after some discussion between the members Linda was able to point-out to everyone that if they looked at the colored Sensitive Land map that it was clear the access is on Hirschi's property. Cheryl went on with her questioning by asking if any of the parcels had sewer, water, or power with them? Tim answered by wanting to clarify that it is the responsibility of the builder or developer or owner to bring the water, power, sewer to the property. Cheryl interjected unless it is under a major subdivision. Chair Brennan stated that it is up to the person developing the property unless they have a development agreement. Cheryl repeated her question asking if any of the lots would have water rights, or sewer? Cheryl also admitted to knowing the answers to all her questions, revealing that she was only asking to get them on the record. Chair Brennan offered that she believed that area had septic. Cheryl pointed out that would require yet another study, mentioning that would be one she would be fine with sending on to the builder. Cheryl asked Jeff Ballard, who was in the audience to come up and answer some of her questions. Chair Brennan suggested that he could do that once they were finished with their questions to Bush and Gudge. Chair Brennan continued asking the rest of the Commissioners if they had any questions for Bush and Gudge, which they did not. Dusty Wright from Bush and Gudge made a personal plea to the Commissioners to approve their application.

Jeff Ballard was called to the podium to clear up any further questions in his capacity as President of the Grafton-Hall Ditch. Cheryl asked if an irrigation water right could be converted to culinary. To which Jeff answered, no. Cheryl also wanted him to recall if the owner of a property could make the Town provide the infrastructure to get the utilities to their property. He said they could not make the Town do that and Attorney Hall agreed.

Chair Brennan recognized Shirley Ballard and allowed her to call on her personal expertise as a past Planning Commissioner to clear up any lingering questions. Shirley explained that their jobs as Planning Commissioners is not to make things impossible for landowners, but to help them do what they want with their land that is allowed by law.

Chair Brennan **MOVED** to approve the subdivision of parcel number R-1296-A-1, of approximately 97.49 acres, into three 20-plus acre Open Space parcels in accordance with the Rockville Land Use Code Chapter 7-Subdivision and Chapter 8-Zoning Regulations, to be known as the Rachel D. Hirschi Estates, conditioned upon the signing, and recording of the Land Development Agreement with the recorded plat map attached as an exhibit thereto. Linda **SECONDED** the motion.

Cheryl declared that she wished to change the motion before the vote. She referred to Chapter 12 of the Land Use Code and restated her opinion that before they could approve the subdivision of the property that the applicants would need to do everything the Code says is required for a major subdivision. She went on to read and list nearly all those requirements. Her point was that the property could not be subdivided, according to the Code without first meeting those requirements. Regardless of whether the land was going to be developed. Chair Brennan asked how she wished to modify the motion. Cheryl said that she decided not to modify it. She just wants to vote at this point. Chair Brennan called for the vote.

VOTE on Motion:

Ken Rybkiewicz: Nay
Cheryl McGovern: Nay
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion passed with three Ayes and two Nays.

ADJOURNMENT: Linda Brinkley **MOVED** to adjourn the meeting. Tim Arnold **SECONDED** the motion.

VOTE on Motion:

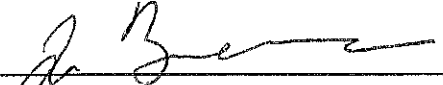
Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion passed unanimously.

The meeting adjourned at 7:30 p.m.

Minutes Prepared by:
Candace Harris, Deputy Town Clerk
Town of Rockville

APPROVED:



Planning Commission Chair/Vice Chair

*The foregoing minutes were posted in the cabinet of the Rockville Town Office by _____
at approximately _____AM/PM on _____ and on the Rockville website.*



Rockville Planning Commission
Regular Meeting
September 14, 2021 6:00 p.m.
Rockville Community Center
43 E. Main Rockville, UT 84763

PLEASE SIGN YOUR NAME AND PLACE OF RESIDENCE FOR THE RECORD

NAME

ADDRESS

SHIRLEY & JEFF BALLARD

MCROSSY CRUSMAN

M. Hoyer-Oxton

Rockville