

WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, JUNE 19, 2019, 7:00 P.M.

MEMBERS PRESENT

Thor Hodges
John Johnson
Mark Mynhier
Tom Western
Joe Wolf
Brad Wolfe
John Woodmansee
Doug Wright

MEMBERS ABSENT

Elizabeth Deckard

ATTORNEY

Dawn Boyd

STAFF

Amanda Thompson

VISITORS

Forty-five visitors signed the guest list at the June 19, 2019 Whitley County Plan Commission meeting. The original guest list is kept on record in the Columbia City/Whitley County Planning & Building Department.

CALL TO ORDER/ROLL CALL

Mr. Wright called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Ms. Thompson read the roll call with all members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE MAY 15, 2019, MEETING MINUTES

Mr. Wright asked if there were any additions or corrections to the May 15, 2019 regular meeting minutes. There being none, Mr. Western made a motion to approve the minutes as presented, seconded by Mr. Hodges. The motion passed 6-0-2 with Mr. Wolfe and Mr. Johnson in abstention.

ADMINISTRATION OF THE OATH TO WITNESSES

Approximately twenty-five guests were sworn in by Ms. Boyd.

OLD BUSINESS

There was no old business.

NEW BUSINESS

1. 19-W-REZ-6

Mr. Wright announced that Item #1, petition 19-W-REZ-6 for Granite Ridge Builders, would be moved to Item #4 and heard prior to petition 19-W-SUBD-5, also for Granite Ridge Builders. The items below have been renumbered to reflect this change.

2. 19-W-SUBD-3

Brian Salomon requested primary plat approval for a 2-lot subdivision, proposed to be called Eel River Bluffs, at 9260 & 9330 E. 150 North, Churubusco. Ms. Thompson summarized the Staff Report and stated that the proposal appeared to be in compliance with the Zoning and Subdivision Codes. Mr. Salomon was present and explained to the Commission that for banking purposes, he needed to subdivide his new home from the surrounding farm ground. The Commission members confirmed the intent with Mr. Salomon but had no other questions. Mr. Wright invited the public to present comments. There was no one present who wished to speak, so the public portion of the meeting was closed. Mr. Johnson made a motion to approve the petition as presented and with the condition that secondary plat approval be delegated to Staff. Mr. Hodges gave the second. The members voted unanimously in favor of the motion.

3. 19-W-SUBD-4

Debra Seitz requested primary plat approval for a 1-lot subdivision, proposed to be called Seitz's Hill, at 4301 W. 275 North, Columbia City. Ms. Thompson summarized the Staff Report and stated that the proposal appeared to comply with the development standards of the Zoning and Subdivision Codes. She noted that the petitioner had received a copy of the comment letter from the County Highway Department which indicated the driveway for the proposed lot would need to be located in the center of the lot; the existing drive does not meet the department's requirements. Ms. Seitz was present and explained that she intended to build a new home on the lot. Her parents are the owners of the existing parcel. She confirmed that the driveway would be relocated. There were no other questions for Ms. Seitz, and Mr. Wright invited the public to speak. There was no one present with comments regarding this petition. Mr. Wright closed the public portion of the meeting and requested a motion from the Commission. Mr. Wolfe made a motion to approve the petition as presented and with the condition that secondary plat approval be delegated to Staff and that the driveway be relocated to meet the Highway Department's requirements. Mr. Western gave the second, and the members voted unanimously in favor of the motion.

4. 19-W-REZ-6

Granite Ridge Builders, DBA Cardinal Creek Development, LLC, requested an amendment to the Whitley County Zoning Map to reclassify a property from the AG, Agricultural District to the RR, Rural Residential District. The 60 acre parcel is located in Jefferson Township on the northwest corner of 700 South and 800 East, Columbia City. Ms. Thompson summarized the Staff Report and extensive Review Criteria.

Pat Hess, attorney, was present to represent the petitioner. He announced that Kathy Hartman of Granite Ridge Builders and David Brown of D. A. Brown Engineering were also present. Mr. Hess distributed a report with supporting documents including various maps, excerpts from the Comprehensive Plan, and a copy of the plat being proposed under item 19-W-SUBD-5. Mr. Hess discussed the five items to which the Plan Commission must give reasonable regard, also adding that the sixth item listed in the Staff Report, "The Public Health, Safety, and Welfare," was not a condition imposed by the Indiana Code but instead was listed in the Whitley County Zoning Ordinance. Mr. Hess stressed that the Comprehensive Plan is a guide only and referenced the Plan's own description on page 40, Part 3: Land Classification Plan. On the same page, he pointed out that the Plan specifically indicates Transitional Agriculture as the best classification for properties adjacent to the Rural Residential District. Mr. Hess cited that page 16 of the Plan describes that 1300 new homes will be needed in order to sustain the expected population growth, and a report of new homes provided by Mr. Bilger shows the county is falling short of the goal.

Mr. Hess discussed the available public utilities and felt the Plan favored developing areas where utilities exist. He listed adequate road access and other nearby developments in support of the petition. Mr. Hess provided a letter from the Allen County Drainage Board approving a drainage outlet and the plat's drainage design. In his summary, Mr. Hess described the development of Aboite Township in Allen County, saying the growth occurred because utilities were available and did not have a negative impact on Allen County. He reiterated that he felt the Comprehensive Plan supported the proposed development as a benefit to the community, and he requested a positive recommendation from the Plan Commission.

Mr. Wolfe asked why Mr. Hess had included an excerpt from the Comprehensive Plan for Residential instead of for Rural Residential. Mr. Hess replied that a residential use is permitted in the Rural Residential District and the images and details in the description of Residential were most similar to the proposed development.

Mr. Wolf said he was of the understanding that this area is already part of a detention area for the Harrison Fields Project via an agreement between Whitley County and Allen County. Mr. Hess deferred the question to the project engineer, David Brown. Mr. Brown confirmed that the farm is a detention basin. A recorded covenant on this ground describes that development of this property needs to provide detention in accordance with the Allen County code. Mr. Wolf was concerned about the release rate and wondered how upstream neighboring properties might be affected. Mr. Brown stated that blocking water flow is against Indiana law, so water will continue to pass through this property and not be backed up onto upstream properties. Mr. Brown briefly explained drainage plan details which will be further developed after the primary plat is approved. Mr. Wolf asked what foundations are planned for the development. Mr. Brown replied that the homes will be built on slabs and basements.

Mr. Hess noted that the plat proposal seemed to be affecting of the rezoning request. He mentioned that in the Staff Report for the plat, deferral was recommended due to

deficient areas on the plat. Mr. Hess requested a decision for the rezoning and indicated that a deferral of the plat would allow the developer time to make necessary changes. In support of both petitions, Mr. Hess presented letters from Fort Wayne City Utilities and Aqua Indiana indicating their acceptance of the development. Mr. Wright asked if there were any additional questions for the petitioners. Mr. Western did not have questions about the rezoning but asked what pavement width was planned. Mr. Hess replied 27 feet. Mr. Western stressed the importance of providing adequate room for emergency vehicles.

Mr. Wright then opened the public hearing portion of the meeting and announced each commenter would have 3 minutes to speak.

Michael Stanford addressed the Commission and said that although he did not attend the meeting for this petition, he wanted to comment on drainage problems he has on his property and the challenges he's faced trying to resolve the issue. He stated that he drives by the subject property and has noted the For Sale sign being underwater. He expressed support for development but stressed that having a good understanding of the engineering is crucial.

Eric Helfrich, owner of the property west of the subject property, explained to the Commission that he enjoyed the agricultural atmosphere and was opposed to a neighboring urban development. He stated he already has problems with drainage backing up on his property where it should be flowing through the subject property. He feared any development and changes to the tile, no matter how well designed, would negatively impact water flow and cause additional drainage problems. Mr. Helfrich also had concerns about how the dirt road would handle additional traffic. He said aside from it being narrow and dusty, it often becomes soft after rain and dangerous. Mr. Helfrich noted there would be quite an expense for the county and/or the developer to improve the drainage and widen and pave the road before it would be suitable for increased traffic.

Mark Konz, a neighbor to the south, said he moved to this location because of the peace and quiet. He was not in favor of listening to construction and dealing with increased traffic. He was disgruntled that the proposed access point aligned with his driveway, and anticipated headlights would be shining into his house. He requested the access point be relocated if the development were approved. He wondered if he would be required to connect to water and sewer and how his property values might be affected.

Alayne Johnson wondered why the Allen County Drainage Board was consulted but the Whitley County Drainage Board was not (to her knowledge). She stated that she knew her father-in-law had concerns about the drainage. Ms. Johnson felt the Comprehensive Plan sought to preserve rural character. She asked the Commission members to consider who this development would benefit. She stated residents would not be traveling 10 miles to do business in Columbia City when they could get what they need 3 miles away in Allen County. Ms. Johnson agreed that development is needed in Whitley County, but she questioned whether or not the proposed location was ideal. She also asked the Commission to consider the cost to provide emergency services to this area. She stressed

again that she was not against development, but she was not in favor of developing an area that would not benefit Whitley County and on land that is still valuable as farm ground.

Rhonda Salge appreciated Granite Ridge's transparency with their rezoning request and praised the thorough Staff Report. She characterized the proposed development as "urban sprawl" and felt Whitley County's goal was to develop near its municipalities. Ms. Salge stated the proposal did not meet the Comprehensive Plan's guide for Rural Residential by planned use, land classification, or location. She also pointed out that the proposal was on the docket for a Variance consideration before the Board of Zoning Appeals because the proposal did not comply with the Zoning Code. Ms. Salge said she did not feel that the petition was in line with the will of the people. Those that she had spoken to had relocated to Jefferson Township from the Aboite area because they sought a rural environment. Ms. Salge told the Commission she calculated that the Comprehensive Plan's goal of 1300 homes had been met. She also said she had ironically received an advertisement flier from Granite Ridge which described developments in 8+ municipal areas. She asked the Commission to consider whether or not there truly is still a need for houses or if this demand is being created by developers. In conclusion, she requested the Commission deliver an unfavorable recommendation.

Cindy Weist described that she lives 1 mile south of the subject property and has concerns about drainage. She said that although there is no flood plain here, there is often flooding problems. Ms. Weist reminded the Commission of a previous rezoning case and said they had given an unfavorable recommendation even though all the recommended criteria had been met. She said that because this proposal meets no criteria, it should not be given a favorable recommendation. Ms. Weist stressed concerns about traffic, both vehicular and pedestrian, which decreases safety. She has lived in the area long enough to see quite an increase in traffic since other developments have been established. She has also seen an increase in crime. Ms. Weist read the introduction of the Comprehensive Plan to the members and voiced her agreement with the previous speakers. She could see no benefit that this development would have for Whitley County. She requested an unfavorable recommendation from the Commission, or, a continuance to a date when Mr. Bilger could attend and answer questions. (For the record, no questions had been asked of Ms. Thompson.)

Linda Hoffman also resides 1 mile south of the subject property. She pointed out that the Staff Report requests the Commission weigh the benefits of development and sprawl against the drawbacks. Ms. Hoffman asked the Commission to make their decision based on economics vs. emotions. She presented calculations based on real estate taxes and described a \$225,000+ annual revenue to Whitley County for the proposed 117 lots whereas the current annual taxes amount to \$1,320. Over the next 10 years, this development could provide an incremental \$2.2 million in tax revenue. From the crowd, Ms. Johnson asked what the cost to Whitley County would be.

Kelly Zorger owns the property north of the proposed development. She stressed concerns about drainage and regarding agreements between her father, Allen County, and

the owner of the subject property, Thomas Milligan. She said there is no agreement with the petitioner, Cardinal Creek. Ms. Zorger wondered how this development would connect to water and sewer from Allen County. She stated nearby Whitley County developments are not on water and sewer because Whitley County's lines are not located in this area. She added that the county road is not equipped to handle the extra traffic this proposed development would create. Ms. Zorger also expressed concern about the layout of the proposed plat saying issues could arise, especially with emergency responders, due to the two access points not being connected. She requested an unfavorable recommendation from the Commission.

Sonya Emerick expressed she had the same concerns others had already mentioned. She believed the Comprehensive Plan's goal was to preserve rural areas. She felt a development of this intensity threatened the character of the area and would negatively impact the way of life for current property owners. Ms. Emerick added that setback requirements for new construction on surrounding properties would be increased due to a neighboring residential development. She added that people who are used to living in subdivisions desire municipal benefits, like free library cards. And, the proposed lots are much smaller than neighboring subdivisions and require Variance approvals. Ms. Emerick pointed out the petition on the Board of Zoning Appeals' docket is for 3 Variances per lot, totaling 351 Variances. Ms. Emerick also told the Commission that although these homes would bring more residents to Whitley County, children would likely attend the closest schools, which are in Allen County. She asked the Commission to consider the cost to farmers and the revenue Whitley County losses in utilities every time a home is built. Ms. Emerick asked the petitioner to find a location near a municipality for their new development.

There was no one else who wished to speak, so Mr. Wright closed the public portion of the meeting and invited the Commission members to discuss. Mr. Woodmansee described the soils in this area as being problematic for drainage. He felt there were too many questions about the proposed development and rezoning and said he could not support the petition.

Mr. Hess asked if he could answer questions before the Commission's decision. Mr. Wright allowed him to speak. Mr. Hess asked Mr. Brown to describe his experience with drainage issues. Mr. Brown said he personally had been designing areas for 25 years, and his father had been in the business for almost 50 years. He stated they had never had flooding on their sites. Mr. Brown described in detail the process of identifying drainage problems and finding solutions to those issues. He said that in this case, before any dirt is moved, he would need to send his proposal to the Whitley County Planning and Building Department, Aqua Indiana (for sanitary sewer), Indiana Department of Environmental Management (for sanitary sewer, water distribution, and erosion control), Whitley County Drainage Board, and Allen County Drainage Board. Mr. Brown explained all these entities review the plans to protect the safety and well-being of the public. He added that he is familiar with the soil types this area has, and has much experience successfully developing areas with similar challenges. Answering Mr. Konz's question about sewer connections, Mr. Brown said outlets will be provided but neighbors are not required to

connect. Mr. Hess requested that Mr. Brown discuss traffic. Mr. Brown said the Indiana Department of Transportation recorded the current traffic count as 2,600 vehicles per day. At the peak hour (between 5:00 - 6:00 PM), there are 300 vehicles, and the proposed development would add 74 vehicles in that time frame. He added that the Allen County Highway Department has more strict requirements than the Whitley County Highway Department, and so, the proposed development was designed to comply with Allen County's regulations. He said if the development is approved, the petitioner will enter into an agreement with the County to chip and seal the section of CR 700 that runs along the development. The public grumbled, dissatisfied with chip and seal. Mr. Brown said every county road is chip and seal and only begins to look like asphalt after it's been driven on for a while.

Ms. Weist requested information on whether or not residents would be required to connect to sewer and water. Mr. Brown said the Health Department could require connection for anyone with a failing septic system. Ms. Weist asked if any research had been done on the requirements of the Whitley County Regional Sewer District. Mr. Brown replied that there had not been because this area is serviced by Aqua Indiana. Ms. Weist also wanted to know why the petitioner had not been in contact with Ms. Zorger's father. Mr. Brown attempted to explain that such details are not part of a preliminary plan. Ms. Emerick asked how many farms Mr. Brown had system ditched. Mr. Brown stated that system ditching was common in DeKalb County, and he has a lot of experience in tile reconstruction. Another member of the public requested to ask a question. Mr. Wright interjected and voiced that public comments would not be accepted during the petitioner's rebuttal time.

Mr. Hess told the Commission that during preliminary planning, Mr. Bilger had advised the petitioner to file the request for a variance for the setback distances. He continued, when the Staff Report was produced, it identified additional items of noncompliance, and the petitioner intends to request a continuance of the variance request so that they may have time to address the other areas of concern. Mr. Hess felt that those present were having trouble understanding the rezoning request. He explained that the Comprehensive Plan recommended the area to be Rural Residential, and in the Zoning Ordinance, smaller lot sizes are allowed for lots serviced by water and sewer. The plat was drawn to reflect the appropriate lot size allowed. Mr. Hodges asked what question Mr. Hess was answering. Mr. Hess replied that many commenters seemed to feel that the density of this development was not right for this area, so he was explaining that the proposal was created with regard to both the Comprehensive Plan and Zoning Ordinance. He referenced other questions that had been asked that were directed towards the plat design and stated that he would like to explain those items as part of the discussion of the plat.

With no further questions from the Commission, Mr. Wright re-opened the public portion of the meeting. Mark Konz requested that the entrance of the proposed subdivision be relocated so that it is not across from his driveway and house. Ms. Emerick asked the Commission to consider their recent training session and asked them to think about the Whitley County citizens that they represent while Mr. Hess was representing his clients who have a different agenda. Ms. Salge pointed out that the majority of the commenters

had spoken against the petition. She stated that the Commission should make their decision based upon the expressions of the public. Mr. Wright allowed Mr. Hess to reply. Mr. Hess stated there would be changes to the plat, so the driveway location could be reconsidered. He reiterated that the plat was drawn in accordance with the code requirements, and he requested a favorable recommendation of the rezoning. With no further comments or questions, Mr. Wright announced the public portion of the meeting would be closed for the final time.

Mr. Woodmansee commented that the drainage issues may be able to be addressed through engineering, but he had his doubts at this time. Aside from that, he asked the Commission to consider what they wanted the nature of the area to look like in the future. He felt the public had expressed the desire to preserve the agricultural character. Mr. Johnson added that the Commission needed to consider who would benefit. He said he did not see how it would benefit Whitley County or a reason for an approval.

Mr. Wolf briefly explained to the public the difference in the cost of road surface materials. He described that the base of the road, the infrastructure, needed to allow water to flow under the road, to culverts, and into the County's drainage system. Mr. Wolf said the County does not intend to convert the material of any gravel roads at this time. Mr. Mynhier stressed that he would trust the engineer and felt the area's drainage problems could be resolved. He added that he did not feel an engineer would proceed with a project if there were a risk of failure.

Mr. Wolfe commented that the rezoning request was being considered based on the plan to develop the parcel into 117 lots. He rhetorically asked if the subdivision proposal would be changed to request half as many lots instead. He asked if the Commission should give a favorable recommendation for a rezoning not knowing how many lots would result. Mr. Wright answered and said that the rezoning request should be considered separately from the subdivision proposal because the subdivision request would be considered later. Mr. Wolfe said he felt there was emotion being applied to the rezoning request because of the subdivision proposal. He stated he had issues with aspects of the subdivision proposal, but he understood that he needed to specifically consider whether or not this parcel should be zoned Rural Residential, based on the recommendations of the Comprehensive Plan and the character of the land. Because of the nature of the surrounding properties, Mr. Wolfe said he would need to decide what the character of the land should be. He stated that the Commission needed to consider the future use of this parcel and not the details of the subdivision proposal.

Mr. Wright requested a motion. Mr. Wolfe made a motion to continue the discussion pending revisions to the subdivision proposal. Mr. Wright said the Commission members should either be in favor of keeping the Agricultural zoning or changing the property to the Rural Residential District. He didn't feel that a continuance should be based on the details of the subdivision proposal. Mr. Wolfe's motion died for lack of a second. Mr. Johnson then made a motion to forward an unfavorable recommendation to the County Commissioners. Mr. Woodmansee gave the second. The motion carried with six Commission members voting in favor; Mr. Mynhier and Mr. Wolfe voted against. Mr.

Wright asked if there was any reason to hear the subdivision proposal before knowing the result of the County Commissioners' consideration of the rezoning request. Mr. Hess requested that consideration of the plat be deferred so changes could be made to some of the lot layouts.

5. 19-W-SUBD-5

*CONTINUED as indicated above.

6. 19-W-SUBD-6 and 19-W-VAC-1

Triple R Ranch, Inc. requested a replat of Lots 9 and 11 in Legacy Preserve, Phase 2. Ms. Thompson explained that the western adjoining property owner was seeking to obtain a portion of Lots 9 and 11 which abut his property. She explained dividing the lots required a replat while the vacation became necessary in order for the new owner to combine the area with his existing metes and bounds parcel, a requirement to avoid land locked properties. Ms. Thompson stated the proposal appeared to comply with development standards, but due to recent Indiana laws, it was uncertain whether or not Legacy Preserve Covenants would continue to apply to vacated lots. Ms. Thompson said if there were future conflict regarding the covenants, the affected parties would need to discuss their issues in court. She read the suggested conditions of approval listed in the Staff Report.

Mr. Wright requested to hear from the petitioner. Keith Robinson, developer, was present and expressed that potential buyers were not in favor of obtaining the large lots. He stated he had a party interested in 4 acres while the adjoining neighbor wanted the remaining property along with a portion of Lot 9. The Commission members had no questions for Mr. Robinson. Mr. Wright asked if anyone else present wished to speak with regard to the petition. Michael Stanford stated his name and address for the record and explained that he was the adjoining property owner who wished to obtain the proposed vacated lots so that no one else would build there. He described the area's drainage problem and said Mr. Robinson had committed to trying to resolve some of those issues. Mr. Stanford said he planned to speak again with the Drainage Board regarding the inadequacy of the culvert directing water to the tile on Mr. Lamle's property to the south.

There was no one else present who wished to speak, and Mr. Wright closed the public portion of the meeting. The Commission members and Ms. Boyd discussed the best way to organize the motion or motions. Mr. Woodmansee made a motion to approve 19-W-SUBD-6 and 19-W-VAC-1 with the suggested conditions listed in the Staff Report. Mr. Western gave the second. The members voted unanimously to carry the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

Mr. Wright declared the meeting adjourned at approximately 8:51 P.M.