

WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, AUGUST 19, 2020, 7:00 P.M.

MEMBERS PRESENT

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

MEMBERS ABSENT

LEGAL COUNSEL

Sam Ladowski

STAFF

Nathan Bilger
Mark Cullnane

VISITORS

Twelve visitors signed the guest list at the August 19, 2020 Whitley County Plan Commission meeting. The original guest list is kept on record in the Columbia City/Whitley County Planning & Building Department. One individual registered for the online webcast, but did not attend. The lists of online registrants and attendees 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 7:01 P.M. and led the Pledge of Allegiance.

Mr. Bilger read the roll call with all members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE JULY 15, 2020 MEETING MINUTES

Mr. Wright stated that the minutes of the July 15, 2020 regular meeting were not ready for review.

ADMINISTRATION OF THE OATH TO WITNESSES

Approximately 11 members of the public who were attending in person were sworn in by Mr. Ladowski. Mr. Ladowski stated that registration for the online broadcast includes an affirmation by the participant that any information he or she provides is truthful.

OLD BUSINESS

1. 20-W-SUBD-10

Steven and Kathleen Linvill request primary plat modification of a 1-lot subdivision proposed to be called Miami Ridge. The subject property is located on the south side of E. 600 North,

approximately ½ mile east of N. 450 East, in Section 8 of Smith Township. The property is zoned AG, Agriculture, and contains approximately 6.74 acres.

Mr. Bilger presented the staff report. He stated that this petition is a modification of the plat of Miami Ridge, previously approved by the Commission at its May 2020 regular meeting as 20-W-SUBD-6. Mr. Bilger stated that the request for modification results from the buyer wanting to purchase more land. He stated that the remainder parcel is less than 20 acres but is greater than 10 acres and will continue to be used for agricultural purposes, thus an agricultural-only use restriction will need to be added to its deed. He presented aerial images of the subject property and surrounding area, along with the plat. He addressed drainage issues that were discussed by the Commission, public, and petitioner during the May meeting. He also reviewed staff's suggested conditions.

Mr. Western asked Mr. Bilger what kinds of residential development could happen with the remainder parcel. Mr. Bilger stated that more residential lots could be platted out of the remainder parcel, but that it would have to be rezoned to Rural Residential (RR) for that to occur. Mr. Western asked if the easements on the modified plat are the same as those found on the plat reviewed in May. Mr. Bilger stated that the easements are the same.

Steven Linvill, 123 W. 500 North, Columbia City, stated that the reason for the plat modification is that the buyer, who originally wanted to purchase approximately 4 acres, now wants to purchase approximately 6 acres.

Mr. Wright asked the Commission if it had questions for Mr. Linvill. Hearing none, he asked the public if it had questions or comments. Mr. Bilger stated that no online attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, Mr. Wright closed the public hearing.

Mr. Wolfe asked for clarification of the agricultural note recommended by Mr. Bilger to be added to the deed of the 17.89± acre remainder parcel. He also asked whether it would be more appropriate to have the remainder parcel platted as well. Mr. Bilger stated that, as the owner wants to continue agricultural use of the remainder, it would be more appropriate to add an agricultural-only use restriction to its deed than to require it to be platted. He said that it would be better for future users to develop a plat that better suits their needs than simply to plat the entirety of the remainder.

Mr. Wolfe made a motion to approve 20-W-SUBD-10 with the following conditions:

1. Secondary plat approval delegated to the Plan Commission Staff.
2. An agricultural-only deed restriction must be added to the 17.89± acre remainder tract.

Mr. Johnson seconded the motion. The motion passed unanimously by a vote of 8-0.

NEW BUSINESS

1. 20-W-SUBD-12

Kim and Diana Hare request primary replat approval of a 1-lot subdivision proposed to be called Schuman Woods Amended. The subject property (more commonly known as 2850 W. Schuman Road) is located on the north side of W. Schuman Road, approximately ½ mile west of N. Lincolnway in Section 36 of Richland Township. The property is zoned AG, Agriculture, and contains approximately 3.30 acres.

Mr. Bilger presented the staff report. He stated that this request is a replat of a subdivision that was originally approved in 2008. The addition of acreage to the platted lot triggers the need for a replat. He said that the preliminary plat appears to meet requirements, except that the name and document number of the acreage being added to the existing lot must be added to the plat.

Mr. Bilger presented aerial images of the subject property and surrounding area, along with the preliminary plat. He pointed out the existence of a legal drain along the western boundary of the subject property and reviewed staff's suggested conditions. Mr. Wright asked the Commission if it had questions for Mr. Bilger. Hearing none, Mr. Wright asked the petitioner to address the Commission.

Kim Hare, 2850 W. Schuman Road, Columbia City, stated that he wants to add some land to the eastern portion of his property.

Mr. Bilger asked if he is planning on building a structure on the additional acreage.

Mr. Hare stated that he wants to place a storage building to the east of the existing home, on the additional acreage.

Mr. Wright asked the Commission if it had questions for Mr. Hare. Hearing none, he asked the public if it had questions or comments. Mr. Bilger stated that no online attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, Mr. Wright closed the public hearing.

Mr. Johnson made a motion to approve 20-W-SUBD-12 with the following conditions:

1. The acreage being added to the existing lot is subject to further review of the Parcel Committee.
2. The name and document number of the acreage being added to the existing lot must be added to the plat.
3. Secondary plat approval delegated to the Plan Commission Staff.

Mr. Wolfe seconded the motion. The motion passed unanimously by a vote of 8-0.

2. 20-W-SUBD-13

Richard, Paul, Mary Ellen and Nancy Schuman request primary plat approval of a 1-lot subdivision proposed to be called Homestead Estates. The subject property is located on the

north and south side of W. Schuman Road, west of N. Lincolnway in Section 36 of Richland Township. The property is zoned AG, Agriculture, and contains approximately 2.36 acres.

Mr. Bilger presented the staff report. He stated that the proposed lot is intended to be used for residential development and that platting is required due to previous splits of the parent tract. He presented aerial images of the subject property and surrounding area, along with the preliminary plat. He stated that the Health Department had not yet received soil tests for the proposed lot. He said that the Highway Department provided comment that a permit cannot be granted for a driveway located on the proposed road frontage due to sight distance. He stated that the Subdivision Code requires that lots provide adequate access for public safety vehicles and other vehicles, and that the Commission needs to evaluate whether access to the lot is adequate. He suggested that it might be possible to establish an access easement to use an existing driveway very near to frontage of the proposed lot. He reviewed staff's suggested conditions.

Mr. Wright asked the Commission if it had questions for Mr. Bilger. Mr. Bilger, Mr. Wright, and Mr. Wolf discussed the Highway Department's requirements for approving driveway permits. Mr. Wolf stated that sight distance requirements come from the Indiana Code and that the Highway Department has required driveway permits for approximately 24 years. He also discussed changes to driveway permitting over time.

Mr. Wright asked the petitioner to address the Commission.

Paul Schuman, 1890 W. Lincolnway, Columbia City, stated that he is requesting plat approval because one of his sisters is interested in moving back to the area and that creating a lot out of his family's land would be the easiest way to get her a building site. He said that one of his other sisters owns the property directly east of the proposed lot, 2565 W. Schuman Road, but that this sister is not interested in establishing an access easement on her property. He added that the existing access directly northwest of the proposed lot has been in existence for approximately 60 years.

Mr. Wright asked the Commission if it had questions for Mr. Schuman. Hearing none, he asked the public if it had questions or comments.

Kim Hare, 2850 W. Schuman Road, Columbia City, stated his support for the petition and added that he believes placement of a driveway on the frontage of the proposed lot would not create a public safety hazard.

Mr. Wright asked if there were any other questions or comments from the public. Mr. Bilger stated that no online attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, Mr. Wright closed the public hearing.

Mr. Bilger and the Commission discussed options for handling the petition knowing that the Highway Department would not approve placement of a driveway. Mr. Bilger suggested that a note could be added to the face of the plat to indemnify the County, Highway Department, and Plan Commission from liability in the event of damage to life or property. Mr. Woodmansee

asked Mr. Ladowski if this would protect the County, Highway Department, and Plan Commission from liability. Mr. Ladowski affirmed that such a note would generally protect them from liability.

Mr. Wright asked for a motion.

Mr. Hodges made a motion to approve 20-W-SUBD-13 with the following conditions:

1. The County is not liable for placement of a driveway in a location not approved by the County Highway Department.
2. The requirements of the County Health Department must be met prior to secondary plat approval.
3. Secondary plat approval delegated to the Plan Commission Staff.

Mr. Wolfe seconded the motion. The motion passed unanimously by a vote of 8-0.

3. 20-W-SUBD-14

Crooked Lake Development Company requests primary plat approval of a 21-lot subdivision proposed to be called Crooked Lake Estates. The subject properties are located on the east side of N. Valley Avenue and E. Morsches Road in Section 4 of Thorncreek Township. The properties are zoned LR, Lake Residential, and contain approximately 11.8 acres.

Mr. Bilger presented the staff report. He stated that the lakeshore acreage adjacent to the lots and parcels included in this petition is owned by petitioner and that petitioner wants to transfer ownership of the lakeshore acreage to the owners of those lots and parcels. He added that many of the lots and parcels included in the petition are composed of disparate properties and that this petition also intends to combine those properties of common ownership into new lots. He reviewed the location of the petition and history of the Forest Park Addition to Crooked Lake. He stated that the proposal would create an easement along the lakeshore allowing property owners in the subdivision to have access to the lakeshore. He said that this easement would continue the practice of allowing said property owners to have lakeshore access, as had been granted in deeds for the properties going back to the formation of Forest Park Addition to Crooked Lake in 1927. He added that lots in Forest Park Addition to Crooked Lake that are not included in this petition would remain part of that subdivision. He stated that some of the lots, as proposed, would not meet current zoning standards, but that, as lots of record, they would be allowable as long as their nonconformity did not increase. He said that ownership of an area of lakeshore acreage due east of the existing Lot 64 of Forest Park Addition to Crooked Lake needs to be clarified.

Mr. Bilger presented aerial images of the subject properties and surrounding area, along with preliminary plat. He reviewed comments received from governmental departments and utilities. He said that the Highway Department stated that the width of Morsches Road does not meet current highway specifications. He stated that the plat needs to include utility and drainage easements at various locations. He said that, as a major subdivision, sidewalks could be required by the code, but added that the right-of-way is not wide enough in places for sidewalks.

Mr. Bilger reviewed staff's suggested condition and recommended that, given the title research needed for the lakeshore area along with the number of corrections and additions that the plat requires, the petition should be continued.

Mr. Western asked Mr. Bilger if the owners of the properties in question do not currently own the lakeshore acreage adjacent to their properties, but that this petition would convey ownership to them. Mr. Bilger affirmed that it would.

Mr. Wright asked the Commission if it had additional questions for Mr. Bilger. Hearing none, he asked the petitioner to address the Commission.

Brooks Langeloh, 818 N. Newport Run, Columbia City, discussed the history of lake cottages and shared lakeshore access along this portion of Crooked Lake. He reviewed options for transferring the lakeshore acreage from Crooked Lake Development Company to the owners of adjacent lots and parcels. He stated that the width of the road has never been an issue in the past and that being required to put in sidewalks along Morsches Road and Valley Avenue would be unduly burdensome.

Kevin Michel, 4242 S. 700 East, Columbia City, stated that utility and drainage easements would be added to the plat and discussed the Easement Area note found on the face of the plat. Mr. Michel asked Mr. Wolf to what point does the Highway Department maintain Morsches Road heading south. Mr. Wolf stated that it maintains the road to the point where the pavement ends.

Mr. Langeloh stated that he had spoken with a title company that it had confirmed Crooked Lake Development Company as the owner of the area of lakeshore acreage due east of the existing Lot 64 of Forest Park Addition to Crooked Lake that Mr. Bilger had questioned.

Mr. Hodges and Mr. Langeloh discussed the possibility of installing sidewalks along Morsches Road and Valley Avenue.

Mr. Wright asked the Commission if it had questions for Mr. Michel or Mr. Langeloh. Hearing none, he asked the public if it had questions or comments.

Debby Vincent, 6982 N. Valley Avenue, Columbia City, stated that she did not understand the purpose and intent of the petition and asked for clarification. Mr. Bilger explained to her the purpose of a subdivision petition. Ms. Vincent asked for clarification of the lakeshore easement area. Mr. Bilger explained to her the purpose of the lakeshore easement area.

Frances Hill, 491 E. Morsches Road, Columbia City, stated that the purpose of the lakeshore easement area is unclear, and that she was opposed to allowing access to a pier on her property to those property owners who did not already have access as granted in deeds to the properties. She stated that she wanted this petition tabled until she can ascertain what property owners will have access to Gall Point at the eastern end of her property.

Ms. Hill, Mr. Bilger, Mr. Michel, Mr. Langeloh, and the Commission discussed the lakeshore easement area and applicability of previous easements and deed restrictions. Ms. Hill reiterated

her opposition to allowing access to her property to those who do not already have access via their deeds.

Rhonda Salge, 5465 N. 650 East, Churubusco, discussed lakeshore ownership and lakeshore access at Blue Lake as reference.

Mr. Bilger, Mr. Langeloh, Mr. Michel, and the Commission discussed the extent of the Department of Natural Resources' ownership of the waters of Crooked Lake. Mr. Bilger stated that DNR's authority generally ends at the water's edge.

Mr. Hodges and Mr. Bilger discussed the requirement that sidewalks be installed along Morsches Road and Valley Avenue. Mr. Hodges suggested that sidewalks should not be required along Morsches Road and Valley Avenue.

Mr. Bilger, Mr. Michel, Mr. Langeloh, Mr. Hodges, and Ms. Hill further discussed the lakeshore easement area. Ms. Hill asked the Commission for time to review the lakeshore easement area and its potential implications on her property rights with a lawyer.

Mr. Bilger, Mr. Hodges, and Ms. Hill discussed the plat approval process.

Mr. Johnson and Mr. Woodmansee discussed a continuance of the petition.

Mr. Wolf made a motion to continue 20-W-SUBD-14. Mr. Mynhier seconded the motion. The motion passed by a vote of 6-2 [dissenting votes were not announced nor noted].

OTHER BUSINESS

Mr. Bilger gave an update on the progress of the ongoing update to the County's Comprehensive Plan. He said that Mr. Cullnane and he had earlier in the day met with the consultants from planning NEXT and had given them a tour of the County. He stated that the consultants, Steering Committee, Mr. Cullnane, and he had a meeting after the tour. He said that initial public input events are tentatively scheduled for late September into October and, possibly, November. He stated that the timeline for the process had been delayed due to COVID-19, but that things are now moving forward in earnest.

ADJOURNMENT

Mr. Wright declared the meeting adjourned at approximately 8:58 P.M.