

WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, SEPTEMBER 16, 2020, 7:00 P.M.

MEMBERS PRESENT

Thor Hodges
John Johnson
Kim Kurtz-Seslar
Tom Western
Joe Wolf
Brad Wolfe
John Woodmansee
Doug Wright

MEMBERS ABSENT

Mark Mynhier

LEGAL COUNSEL

Sam Ladowski

STAFF

Nathan Bilger
Mark Cullnane

VISITORS

Twenty-four visitors signed the guest list at the September 16, 2020 Whitley County Plan Commission meeting. The original guest list is kept on record in the Columbia City/Whitley County Planning & Building Department. Zero individuals registered for the online webcast. The list of online registrants 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.

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

Mr. Bilger introduced Kim Kurtz-Seslar, a new Commission member appointed by the Board of Commissioners at its September 8, 2020 meeting.

CONSIDERATION AND ADOPTION OF THE JULY 15, 2020 AND AUGUST 19, 2020 MEETING MINUTES

Mr. Wright stated that the minutes of the July 15, 2020 and August 19, 2020 regular meetings were not ready for review.

ADMINISTRATION OF THE OATH TO WITNESSES

Approximately 13 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-14

Crooked Lake Development Company requested 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 reviewed the staff report. He stated that staff had received an updated preliminary plat a few days prior to the meeting, and that changes found in the revised plat were not reflected in the staff report as it had been distributed before the revised plat was provided. Mr. Bilger reviewed the location of the subject properties and surrounding area. He presented the revised plat, briefly reviewed changes and said that changes reflected those suggested at last month's meeting. He said that changes appear to have made the proposal more compliant. He stated that, as a replat, the lack of dedicated right-of-way along Morsches Road was determined not to be a concern. He said that utility, drainage, and access easements found in the revised plat appear to be adequate. He stated 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 documented on the plat. He reviewed staff's suggested conditions, and said that Kevin Michel, the surveyor who prepared the revised plat, was in attendance and would be able to discuss changes in more detail.

The Commission had no questions for Mr. Bilger. Mr. Wright asked the petitioner to address the Commission.

Kevin Michel, 4242 S. 700 East, Columbia City, presented the revised plat to the Commission and reviewed changes.

Mr. Woodmansee asked Mr. Michel if boathouses were explicitly excluded in the lakeshore easement area text. Mr. Michel affirmed that they were.

Mr. Western asked Mr. Michel if the concerns about the lakeshore easement area raised by the public at the previous Commission meeting had been addressed. Mr. Michel stated that they had, but that Brooks Langeloh would be better suited to discuss those concerns and how they had been addressed.

Brooks Langeloh, 818 N. Newport Run, Columbia City, reviewed the purpose of the petition and the concerns about lakeshore access raised by a member of the public at the previous meeting.

Mr. Hodges asked Mr. Langeloh to briefly explain the agreement that was reached concerning lakeshore access. Mr. Langeloh stated that a reference to free use and enjoyment of a pier and bathing area found in the original plat had been removed from the revised plat.

There being no additional questions for Mr. Langeloh, Mr. Wright asked the public if it had questions or comments.

Debby Vincent, 6982 Valley Avenue, Columbia City, asked if the changes proposed in this petition would impact her property and if it is correct that the petition would combine existing disparate properties into common ownership. She asked if this petition would also combine her disparate properties into one property.

Mr. Michel stated that the lakeshore access easement only affects those properties included in the plat and that the petition would combine disparate properties into common ownership, but only of those properties included in the plat. He stated that her properties would not be combined because her properties are not part of the plat.

Mr. Wright asked if the public had additional questions or comments. Hearing none, Mr. Wright closed the public hearing.

Mr. Hodges made a motion to approve 20-W-SUBD-14 with the following conditions:

1. Secondary plat will be reviewed by Parcel Committee prior to recordation.
2. Secondary plat approval delegated to the Plan Commission Staff.

Mr. Johnson seconded the motion. The motion passed by a vote of 7-0-1, with Ms. Kurtz-Seslar abstaining.

NEW BUSINESS

2. 20-W-SUBD-15

Bill Simpson requested primary replat approval of a 1-lot subdivision proposed to be called Simpson's Meadow. The subject property (more commonly known as 2277 N. Binkley Road) is located on the west side of N. Binkley Road, approximately 1,100' north of W. 200 North in Section 30 of Richland Township. The property is zoned AG, Agriculture, and contains approximately 6.57 acres.

Mr. Bilger presented the staff report. He reviewed the location of the proposed plat and stated that platting is required due to previous splits from the parent tract. He displayed aerial images of the subject property and surrounding area, along with the proposed plat. He said that comment letters received indicated that the plat was generally sufficient, with the exception that the Highway Department stated it could not approve a driveway permit due to insufficient sight distance and that the Health Department requires a second septic site to be approved. He discussed alternatives to secure access that could be acceptable to the Highway Department and reviewed staff's suggested conditions.

Bill Simpson, 335 N. Chauncey Street, Columbia City, stated that the proposed access is the only option due to the configuration of the property.

Mr. Hodges asked Mr. Simpson if he would agree to release the County, Highway Department, and Plan Commission from liability in the event of damage to life or property that may result from placement of an access drive. Mr. Simpson stated that he would agree to releasing the County, Highway Department, and Plan Commission from such liability.

Ms. Kurtz-Seslar asked Mr. Simpson what the speed limit is on this section of N. Binkley Road. Mr. Simpson said that he believed that it was 55 miles per hour. Mr. Wolf affirmed this and stated that it is unposted on this section of the road.

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

Mr. Ladowski administered the oath to John Enrietto.

Mr. Enrietto, 8151 S. 700 East, Columbia City, stated that this petition should require a variance prior to approval. Mr. Bilger stated that a variance would not apply in this case, because the Zoning Ordinance requires adequate frontage, which has been met based on the plat. It does not require issuance of a driveway permit. He said that the Subdivision Control Ordinance does, however, require adequate access and it could be possible that a waiver of the SCO could be warranted in this case. He said that this decision is up to the Commission.

Mr. Wright asked Mr. Bilger what the Commission did last month when it was faced with another plat that did not receive approval of a driveway permit due to inadequate sight distance. Mr. Bilger stated that the Commission, in the previous case, found that placement of a driveway was adequate when the plat contained a statement releasing the County, Highway Department, and Plan Commission from liability in the event of damage to life or property resulting from placement of an access drive along the lot frontage.

Ms. Kurtz-Seslar asked how long the driveway liability statement would protect the County, Highway Department, and Plan Commission. Mr. Ladowski stated that this was uncertain, but that there is a good argument that it would protect these entities from liability in the event of damage to life or property. Mr. Wolf stated that driveway sight distance requirements are determined by INDOT, not the Highway Department.

Chad Ebbinghouse, 2315 N. Binkley Road, Larwill, stated that he is concerned about restrictive covenants and the proposed use of the property.

Mr. Simpson stated that he has no plans to record restrictive covenants for the proposed subdivision and that he intends to build a home on the property. He reviewed an aerial image of the area and explained to the Commission that an access drive along the frontage as proposed on the plat is his only option.

Mr. Wright asked if the public had additional questions or comments. Hearing none, Mr. Wright closed the public hearing.

Mr. Wolf stated that he is concerned that the Commission is setting a precedent that all flag lots will be approved regardless of whether they meet sight distance requirements for a driveway permit from the Highway Department.

Mr. Hodges stated that the petition appears to meet all zoning standards and that he would be fine with a driveway note being on the face of the plat, like what the Commission determined previously for 20-W-SUBD-13.

Mr. Wolfe asked if the driveway note proposed for the secondary plat has standard language. Mr. Bilger stated that the language for the previous case was still being drafted, so nothing was yet set.

Mr. Wright stated that he has no problems with flag lots and that he is fine with the plat containing a driveway note that could release the County from liability.

Mr. Western made a motion to approve 20-W-SUBD-15 with the following conditions:

1. Petitioner must sign a waiver releasing the County from liability for the location of driveway.
2. Any easements or other means to address the access be finalized and referenced on the secondary plat.
3. The requirements of the County Health Department must be met prior to issuance of a building permit.
4. Secondary plat approval delegated to the Plan Commission Staff.

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

3. 20-W-SUBD-16

Howard and Bethany Whitlow request primary plat approval of a 1-lot subdivision proposed to be called Nice Estates. The subject property is located on the west side of N. State Road 109, approximately 500' north of W. 400 North in Section 16 of Thorncreek Township. The property is zoned AG, Agriculture, and contains approximately 1.88 acres.

Mr. Bilger presented the staff report. He stated that this is a partial replat of Whitlow Estates, previously platted in 2017. He said that the property is currently improved, with a recently constructed residence. He stated that the purpose of the replat is to sell the pond frontage that was included in the original plat of Whitlow Estates to an adjoining property owner. He said that platting is required due to previous splits of the parent tract and that a motion to approve needs to include a vacation of the plat of Whitlow Estates. He presented aerial images of the subject property and surrounding area, along with the preliminary plat. He stated that approval of this plat would create a landlocked remainder parcel that does not meet the Zoning Ordinance's standards for a new parcel and that the Commission should avoid allowing creation of non-compliant parcels without accounting for the noncompliance. He recommended that the Commission vacate the remainder of Whitlow's Estate and require that the remainder be combined with an adjoining property. He reviewed staff's suggested conditions.

Kevin Michel, 4242 S. 700 East, Columbia City, presented the Commission with copies of the preliminary plat. He stated that petitioner wants to sell the 0.787± acre remainder to Timothy Chamberlain, an adjoining owner and current owner of the majority of the pond.

Mr. Woodmansee asked Mr. Michel if this would remove pond frontage from the proposed plat. Mr. Michel affirmed that it would.

Mr. Wolfe asked if the property would still have two approved septic sites. Mr. Bilger affirmed that it would.

Mr. Wright asked the Commission if it had additional questions for Mr. Michel. Hearing none, Mr. Wright asked the public if it had questions or comments. Hearing none, Mr. Wright closed the public hearing.

Mr. Woodmansee made a motion to approve 20-W-SUBD-16 with the following conditions:

1. Vacate the Whitlow's Estate plat.
2. Note the drainage & utility easement on the north side of the lot.
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.

4. 20-W-SUBD-17

Greg Saylor requests primary plat approval of a 3-lot subdivision proposed to be called Papaw's Italian Ice. The subject property is located on the south side of E. Colony Avenue, approximately 400' east of N. Fish Hatchery Road in Section 12 of Thorncreek Township. The property is zoned LR, Lake Residential, and contain approximately 2.7 acres.

Mr. Bilger presented the staff report. He stated that the proposal is for a three-lot subdivision south of Round Lake. He said that currently the property is described by metes and bounds as parts of Outlots 1 and 2 of Beech Park Addition to Tri-Lakes Resort, is currently improved with a residence and outbuilding, and contains multiple county-regulated tile drains. He stated that the County's current policy requires splits of platted outlots or blocks to be platted. The Health Department reported that the existing well serving the residence on proposed Lot 1 is located on proposed Lot 2. This is permissible, but it is advisable to create an easement and, if possible, drilling a new well that would be located on Lot 1 would be preferable. He presented aerial images of the subject property and surrounding area, along with the preliminary plat. He discussed the locations of two county-regulated tile drains located on the property and stated that the existing residence is legal, nonconforming and that any new construction would require approval of the Drainage Board. He also discussed the potential presence of wetland areas to the east of the existing outbuilding. He stated that development of the wetland area may require further review. He reviewed staff's suggested conditions and stated that, at the request of the County Engineer, staff recommends a continuance pending review by the Drainage Board. He added that the petitioner should take this opportunity to investigate the well location, flooding, wetlands, erosion control, and sewer connection requirements.

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

Greg Saylor, 5552 N. Willow Avenue, Columbia City, stated that he is splitting the property to sell off lots because he has had inquiries about the property. He stated that he initially purchased the property to build on but decided against because of the drainage tile issues.

Mr. Wright asked Mr. Saylor why a potential buyer would want to buy one of the proposed lots if not for a building site. Mr. Saylor stated that he was not aware of the potential wetland area until today.

Mr. Woodmansee asked Mr. Saylor to address the issue of the well not being on the same lot as the residence. Mr. Saylor stated that a potential buyer will most likely have a new well drilled.

Mr. Hodges asked Mr. Saylor if he lives in the residence on proposed Lot 1. Mr. Saylor stated that he does not live in that residence and that it has been empty for years.

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

Judy Loe, 2773 E. Colony Avenue, Columbia City, stated her opposition to the petition. She said that there is a wetland area in the area described by Mr. Bilger, that it does flood in that area, and that the area should not be developed.

Derek Bean, 2762 E. Colony Avenue, Columbia City, stated his opposition to the petition. He said that the residence is in bad shape, the area around it is overgrown, and that it should be torn down. He said that splitting off the property into lots will make it more difficult to sell the lot with the residence.

Mr. Wright asked if the public had additional questions or comments. Hearing none, he closed the public hearing.

Mr. Wright and Mr. Bilger discussed a continuance of the petition so that the Drainage Board can conduct further review.

Mr. Hodges made a motion to continue 20-W-SUBD-17. Ms. Kurtz-Seslar seconded the motion. The motion passed unanimously by a vote of 8-0.

OTHER BUSINESS

Mr. Bilger provided the Commission with an update on the progress of the ongoing update to the County's Comprehensive Plan. He stated that stakeholder interviews were currently being conducted by the County's consultant and that Planning staff are currently attempting to identify meeting spaces in which to hold public input events in mid- to late October. He briefly discussed the timeline of the process.

Mr. Woodmansee reviewed Public Law 53. He stated that this law redefines who may represent the County Agricultural Extension Board on the Commission. He said that it allows a county agricultural extension educator who serves on the Commission, but is not a resident of the

County, to serve in a nonvoting advisory capacity. He stated that the Extension Board has selected Brent Emerick to replace him as the Board's representative on the Commission.

ADJOURNMENT

With no further business to discuss, Mr. Wright declared the meeting adjourned at 8:18 p.m.