

Minutes of the February 26, 2004  
Regular Meeting of the  
Marshall County Plan Commission  
112 West Jefferson Street, #302  
Plymouth, Indiana 46563

## MINUTES

President David Dinius called the meeting to order at 7:30 p.m. on Thursday, February 26, 2004, in Room #307 of the Marshall County Building. Present were: Commission Members Clifford Allen, David Dinius, Larry Fisher, Randy Glinge, Ronnie McCartney, Wayne Neidlinger, Harold VanVactor, Max Watkins, Plan Director Troy Kiefer, Secretary Leesa Kolter, Planning Assistant Dave Rockaway and interested parties. Absent was Plan Commission member Fred Lintner.

The first item of business was the review of the minutes from the January 22, 2004 meeting. Mr. Neidlinger moved and Mr. Watkins seconded a motion to pass the minutes with corrections. The motion passed by voice vote.

The second item of business was case 04-PC-03, Mark & Angela Leed, A request for a Vacation of an unnamed Right-of-Way between Lots 4 & 5 of Nichol's Subdivision, Cook Lake Trail, in an L-1, Lake District, Section 24 of West Township. Mr. Leed was present to represent the request. Mr. Kiefer gave the details of the request and presented the findings of fact. He stated that the Plan Commission would forward the request with a recommendation to the County Commissioner's, who would make the final decision. He stated that this was a 30 feet by 130 ft right-of-way, unimproved and basically a lawn. There is a significant drop off approximately 20 feet into it to lake level. It is highly unlikely that it could be used by vehicles and could be used by foot only if some improvements were made, such as stairs.

Mr. Kiefer further stated that there are no public utilities on this right-of-way. Mr. Kiefer informed the Commission that there are state statues to be considered when reviewing the request. The two findings to be used are:

1. Is it in the best public interest to vacate all or part of the alley; and
2. Would value of property adjacent to and not owned by petitioners, be diminished by the vacation of the right-of-way.

Mr. Leed stated that he thought the drop off was a dangerous hill and if he owned the property, he would landscape it or make it more child friendly for the safety of his young daughter. By owning this property, Mr. Leed quoted he would have better parking and the landscaping he would like to do, would improve the value of his adjoining land. He doesn't want to put money into something he has no control over.

Mr. Kiefer clarified that if the vacation was granted, Mr. Leed would receive one half and the other one half would go to the other adjacent property. Mr. Leed could then purchase the other one half if he wished. Mrs. Leed said they preferred that the land be split.

Mr. Neidlinger moved and Mr. Van Vactor seconded a motion to open the public hearing. The motion passed by voice vote.

Ann Keltz of 16061 Ridge Road, Cook Lake Trail, responded that she felt the vacation would cause parking problems. She also stated that the vacation of this lot was brought before the Commission before and was denied at that time.

Glennis Balsley, owner of property on other side of lot. She asked for clarification that the Leeds would get one half and Balsleys would get one half of the vacated lot. President Dinius responded correct.

Gladys Jolly, 16075 Cook Lake Trail, asked for description of exact location of lot in question. Mr. Leed responded that it was between Lots 5 and 6. President Dinius made the correction on his paper which read between Lots 4 and 5. Discussion was held by Commission as to correct location of requested vacation.

Mr. Balsley stated that he had put in stone on this lot so that he could park there. He felt that the alley could be closed.

Mr. Fisher asked for clarification from Mrs. Jolly as to whether she was for or against the vacation. She replied that she was against it. She said that right now it was being used as a public parking space and without it there will be a problem. When asked if they had two spaces to park in their drive, Mrs. Leed declared that there was septic on one side and space for her car on other side of drive.

There was no one else to speak either for or against the request. Motion to close public hearing was made by Mr. Glinge and seconded by Mr. McCartney. Motion passed by voice vote.

Mr. Leed was allowed to state that he was asking for the vacation so that they did not have to park on the road. Others stated that this was a lake access and could not be closed. Mr. Allen stated opposition to the closing because it is not in the best interest of the people who live there. He stated it devalues the property of people who live off the lake because of no public access.

Mr. McCartney explained why he was against the vacation. Mr. McCartney warned Mr. Leed that if he improved the hill and made it more user friendly, there would be more traffic on the lot. Mr. Leed replied that he would have put up a fence to protect children from rolling down the hill.

Mr. Allen made a motion to forward to the County Commission a recommendation of denial of this vacation. Mr. Glinge seconded the motion. The motion was passed by unanimous vote.

The third item of business was case, 04-PC-04, Allen Kaufman, A request for a Special Exception to allow Harness Shop to be located at 4663 Filbert Trail, in an A-1, Agricultural District, Section 9 of German Township. Mr. & Mrs. Kaufman were present to represent the request. Mr. Kiefer gave the details of the request and presented the Finding of Facts. He stated that the Plan Commission would forward a recommendation to the Board of Zoning Appeals, who would make the final decision. He stated that the Commission considers the request in general terms while Zoning Appeals looks at it in more specific terms. Mr. Kaufman's business would be for the sales, repair and manufacture of horse harnesses. Mr. Kiefer also furnished a site plan and location of such business.

President Dinius asked Mr. & Mrs. Kaufman if they wanted to add anything. Mr. Kaufman replied no. President Dinius ask the Commission if they had any questions. Mr. McCartney asked Mr. Kaufman how many employees he would probably have. Mr. Kaufman did not have a firm number. Mr. Kiefer added that a home business required that the property owners must reside on the location and the number of employees is at the discretion of the Board of Zoning Appeals.

President Dinius asked how much business Mr. Kaufman was expecting and also how many parking space were available. Mr. Neidlinger made a motion to open the public hearing. Mr.

McCartney seconded the motion. The motion passed by voice vote. There was no one to speak for or against the request. Mr. Neidlinger made a motion to close the public hearing. Mr. McCartney seconded. The motion passed by voice vote.

Mr. McCartney questioned Mr. Kaufman as to what kind of clientele he anticipated having. He asked if they would be local or do they market on a national basis. Mr. Kaufman stated that it would be more local. Mr. Fisher asked if this business would be full-time occupation for Mr. Kaufman. He replied that he was now employed in a factory and is hoping this business will become full-time. Mr. Fisher further asked what his hours of business will be at this time. Mr. Kaufman responded that he would be open on week nights and Saturdays.

Mr. Neidlinger made the motion to forward a favorable recommendation to the Board of Zoning Appeals. Mr. Fisher seconded the motion. The motion was passed by unanimous vote.

The fourth item of business, case 04-PC-05, Jason Richards, a request for a Special Exception to allow a Farm Service Business on property located at 9595 Tyler Road, in an A-1, Agricultural District, Section 24 of North Township. Mr. Richards was present to represent the request. Mr. Troy Kiefer reviewed the details of the request and presented the Findings of Fact. Mr. Richards business would include: servicing and repairing farm equipment and minor truck repairs with emphasis on farm equipment.

Mr. McCartney made a motion to open to public hearing. Mr. VanVactor seconded. The motion passed by voice vote. There was no one to speak either for or against the request. Mr. Neidlinger moved to close the open hearing and Mr. Watkins seconded. The motion passed by voice vote.

Mr. Richards stated he would be mainly working on his own equipment and that of his father-in-law. At this time, he does not intend to hire employees. Commission Board members discussed the numbers of farm equipment repairs businesses now in the county. President Dinius stated that complaints occur from time to time about vehicles being stored outside of these kinds of businesses. It was strongly suggested that this not be the case with Mr. Richards business. Mr. McCarthy made a motion to send a recommendation of approval to the Board of Zoning Appeals. Mr. Watkins seconded. Motion was passed by unanimous vote.

The fifth item of Business, case 04-PC-06, a request for Amendment to the Town of Culver Extra-Territorial Zoning Jurisdiction. President Dinius asked Troy Kiefer to clarify the request. Mr. Kiefer stated that the request had been withdrawn.

The sixth item of Business, is case 04-PC-21, Plan Commission, Review of the Proposed Comprehensive Plan and an appointment of a committee to help rewrite the Ordinances. Mr. Kiefer announced that the County Commissioners held a special hearing on the Comprehensive Plan. The Commissioners verbally approved of the text of the Plan, but there was a concern voiced about the map.

Mr. Kiefer reported that after looking back at the minutes, the Plan Commission had not officially made any motions on the map portion of the Plan. Mr. Kiefer reminded the Commission on what was originally in the Plan. He stated there are three distinct areas to the Plan. These areas are 1): Agricultural/Conservation. 2): Agricultural. 3): Rural Residential. The Plan Commission needs to decide on making the county two districts: that is 1): Agricultural and 2): Agricultural Residential. If we do want a Agricultural Residential, how will it immediately be implemented in our zoning ordinance. This is a Comprehensive Plan for the next twenty years. Although the Agricultural/Residential is to be utilized in the Plan in the future, may not be right for Marshall County at this time. We do have the option of discussing it in the Plan and placing it on our future land use map but not identifying any of those areas in the zoning ordinance on the map at this current time. If people would like to come in for a zoning change, and request the area be changed to Agricultural/Residential, then deal with that on a case by case basis. Mr. Kiefer showed GIS maps to the Commission at this time on general trends of density in one to five acre lots in the county. The area is more in the northwest side than in the east side of the county. Mr. Kiefer passed out individual township maps showing the general highest density of these lots in the county are Polk, West and northern Union. Mr. Kiefer's recommendation would be that we adopt the Consultant's area for Agricultural/Residential and let the Zoning Ordinance Committee discuss do those areas need to be included in our zoning ordinance at this time or do we look at those on a case by case basis. Further discussion was made by the Commission on the legal definition of the different areas as specified and what type of development would be acceptable in these areas. Mr. Kiefer stated that the Commission needs to keep clear the purpose of the Comprehensive Plan versus the purpose of the Zoning Ordinance and the subdivision regulations. In the Comprehensive Plan, in the next twenty years, without locking the community in, that as a general rule, if we have residential development, we would prefer it go into designated areas. The role of the Plan Commission, is to use your knowledge of the community, to use your vision of where we need to go in the future, to help make those decisions. It was made known to the Commission that communities to the east side of the county did not care for this approach.

That is to say, development should be encouraged to be located in the northwest and west parts of the county because of more topographical suitability.

A motion to open to public hearing, was made by Mr. Allen and seconded by Mr. McCartney. The motion was passed by voice vote.

Mrs. Anderson, from West Township, inquired if there would be a difference in tax rates between Agricultural and Agricultural Residential. The Commission replied that it would be taxed on it's assessment. Mr. Kiefer gave the definition of an Agricultural/Residential area. Public hearing was left open through continuing discussion so that further questions could be asked.

President Dinius asked Mr. Kiefer what specifically is being asked of the Plan Commission at this meeting. Mr. Kiefer answered that they would need to reaffirm approval of the text portion of the Comprehensive Plan with changes that were discussed at the previous meetings, as well as, the map portion of the Land Use Plan with changes of eliminating the Agricultural Conservation area. President Dinius asked Mr. Kiefer if approving the Land Use Map meant designation of specific areas as Agricultural-Residential at this time. Mr. Kiefer answered that for terms of the Comprehensive Plan, he recommended that the Commission approve. In terms of the ordinances, it would not lock the Commission into making one area that zoning district.

**Mr.** Neidlinger asked if the public was aware of the decisions that were being made on the map at this meeting. Mr. McCartney replied that he didn't think the public knew the details of the Plan because he thought that all designated areas had been eliminated. He further stated that he was not in favor of the wording of the one acre proposition. He also felt the five acre rule was better in the long term interest. He further stated his reasons against the one acre parcel plan. Mr. Kiefer answered that to buy a one acre parcel, the land would need to be a part of a divided minor or major subdivision with regulations that apply. Criteria would need to be established to regulate these minor plats. More discussion was held to clarify terms of building lots.

Mr. Dave Miller was recognized. He said it was his understanding that the Comprehensive Plan had been approved with eight amendments and passed on to the Commissioners. His impression was that the Commissioners approved the Plan that was given to them except they felt there needed to be clarification on the Zoning Map to give guidance. It is **Mr.** Miller's impression that the discussion at this meeting, was to be geared to that clarification of areas on the Map. Mr. Kiefer agreed that was exactly what the purpose of the Plan Commission meeting this evening. Mr. Kiefer stated that the reason for this meeting is to approve a map to go with the Comprehensive Plan. Mr. Neidlinger suggested that a strip around each town in the county be zoned Agricultural/Residential. President Dinius said

that would be within the Zoning area of the various towns and not in the Commission jurisdiction. Mr. Neidlinger stated that the strip be around the zoning area of each town. Mr. Kiefer commented that towns are trying to expand from the inside out and his concern, by putting a ring around each town, is simply, starting to do what we were trying to avoid in the two mile zone. President Dinius commented that the committee that writes ordinances, designate certain areas, when they examine densities, or when people come in to request. Mr. Kiefer responded he felt the Commission should be giving guidance to twenty years in the future. Mr. Neidlinger stated he worried about getting into TDR, Transfer of Development Rights. He feels the yellow on the map is going to become a receiving area. President Dinius agrees with Mr. Kiefer's concept totally, however, people are objecting to favoring the west side of the county versus the east side. He, also, favors another public hearing about the designated areas of Agricultural Residential on the Zoning Map.

The Commission further discussed the option of making all Agricultural Residential areas to Agricultural. If this option is accepted, then the Commission is back to the beginning with the two mile zone around the county towns being the only suggested areas for future subdivision development. Mr. asked if the County Commissioners wanted verification of the Zoning Map as seen now at this meeting. Mr. Allen said he was not sure because the Commissioners had not seen a map like the one at this meeting. Mr. stated that the Commissioners did receive this map with their copy of the Comprehensive Plan with a ratio of 40 to 1 or 80 to 1 and that ratio is what has the Commissioners concerned at this time.

Mr. Fisher asked, how does the Plan Commission draw a map that shows what their inclination is and the areas that would like to be developed without actually saying these are the areas for development. In clarification, trying to define the areas of development without pointing out these are the specific areas for development. Mr. Fisher further stated that he understood the preference and accommodation for development in specific areas and not in others. But how to accomplish this goal is the question at hand. Mr. Fisher wants to know if a map can be drawn to outline areas of where the Commission would like to see development occur without being locked into these drawings. Mr. Kiefer answered that they could do very broad strokes, not snap it right to the property lines or roads or use "bubble diagrams". President Dinius stated that Agricultural/Residential zones are not encouraged on prime farm land. He further answered that a statement to this effect might be as far as the Commission can go on designation. Mr. Fisher inquired if Agricultural/Residential zones, right now, was a conceptual zone, or something that will be determined when someone applies for permit. Mr. Kiefer replied that this is an option. Mr. questioned whether they needed to have criteria to help make a judgment once someone does apply or is this going to be a political decision they are talking about now; that is to say community sense, not politics sense. Is this going to be the same rules and guidelines that have been used in the past, for

approving subdivisions or not, but changing the land use designation. This could be relegated more to a community decision as opposed to a specific "meet the specifications" decision. Mr. Kiefer feels that they can place suggested criteria in the Zoning Ordinance to help guide that decision without holding anybody to it legally. The Commission could make suggested specifications that will be considered when a request is made. Mr. Fisher answered that this is what is currently called a PUD.

President Dinius asked if there were any other comments. Mr. Miller was recognized. He asked how do you give direction without locking the Commission into "nodding your head" yes. Mr. Miller further commented that direction would be given, by the Commission, by backing up your shaded area by soil types, "clustering" now, and all other things that show that general area is the place for development. At least this is a vision and the ordinances will dictate whether or not something gets approved. It still has to be a quality plan, and it still needs all the things put into place from road placement, health department issues, septic requirements, and all other things the Commission needs to "fine tune". Mr. Miller also commented that the Commissioners sent back a white sheet map to the Plan Commission and said that we need to have some vision. Further decisions should be made after ordinances are approved.

A motion was made by Mr. VanVactor to close the Public Hearing and seconded by Mr. Watkins. Motion was passed by voice vote. Mr. McCartney made a motion to send back to the County Commissioners a designated Agricultural, or white map with direction toward the Ordinance Committee to look at specific density areas with the possible recommendation, from that committee, of zoning certain areas Agricultural Residential. Mr. VanVactor seconded the motion. The motion was passed by unanimous vote.

The seven item of business was appointing the five member designated Zoning Ordinance Sub committee and also a Plan Commission number.

President Dinius stated that there are six people volunteering to serve on this committee with five slots to appoint. Mr. Kiefer then read the list of names. They are as follows: Deb Griewank from Center Township, Andy Lemler from Bourbon Township, David Miller from West Township, Dennis Thornton from German Township, Joel Schumacher from West Township and Judith Stone from Center Township. President Dinius has spoken to five of these individuals to give them an idea of what the appointment would entail. It was commented that he felt the applicants should understand that this appointment to the Zoning Ordinance Subcommittee, was extremely important and regular attendance was expected. President Dinius confirmed that this committee would be meeting on a once a month basis for at least twelve to fifteen months.

Mr. Kiefer asked that due to Open Door laws, that each Commission member sign their own ballot. President Dinius further asked if any Commission members had any names they wished to add to the ballot at this time. To expedite the process, the members will vote on which applicant they felt should be left off the committee. While Mrs. Kolter counted the ballots, Mr. Neidlinger nominated David Dinius to serve on the Zoning Ordinance Subcommittee from the Plan Commission and it was seconded by Mr. VanVactor. Mr. Fisher moved that the nominations be closed and was seconded by Mr. VanVactor. President Dinius was elected by unanimous vote and he accepted. Mr. Kiefer read the list of names for appointment to the Zoning Ordinance Subcommittee. They are: Deb Griewank, Andy Lemler, David Miller, Dennis Thornton, and Judith Stone.

Mr. Fisher asked that he not be a nominee for the position of Secretary of the Plan Commission. President Dinius opened nominations for Secretary. Mr. Allen nominated Mr. VanVactor and Mr. Fisher seconded. Mr. Glinge moved the nominations be closed and Mr. Watkins seconded. Mr. VanVactor was elected by unanimous vote.

President Dinius asked the Marshall County Plan Commission to appoint a representative to the Plymouth Plan Commission. President Dinius has filled this post in the past. Since he is now going to be serving on the Zoning Ordinance Subcommittee, he asked that he be excused and a new appointment made. This appointment is a "speaking seat" but not a voting position. Mr. McCartney made a motion to appoint Mr. VanVactor to be liaison to the Plymouth Plan Commission and was seconded by Mr. Glinge. Mr. VanVactor was elected by unanimous vote.

Mr. Troy Kiefer gave his annual report. Packets were handed out to the Commission members with this information in it. He reported that the Commission had thirty six cases in 2003. The most since Mr. Kiefer has been in Marshall County. He also reported that the Board of Zoning Appeals had thirty four cases in 2003. In 2004, he stated that most of his time will probably be spent on the Zoning Ordinance and he would also like to get more involved in benchmarking. This is a tool to gauge what effect the Comprehensive Plan is having on the county. Also, he would like to look at a Capital Improvement Program. This is when the County looks six to ten years down the road and plan for it's major improvements, such as, the jail or court house roof. It would have been nice if, years ago, there had been a plan for these things and it would not seem such a crisis now. Mr. Kiefer stated that in the next two to three years, there would be a need for more staff in the office.

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President Dinius asked for other business. There being none, Mr. Allen moved to adjourn at 9:45 p.m.

Respectfully submitted,

Harold VanVactor  
Secretary