

February 22, 2024  
Regular Meeting of the  
Marshall County Plan Commission  
112 W. Jefferson St. Room 203  
Plymouth, IN 46563

## MINUTES

President, David Hostetler, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, February 22, in Room 203 of the Marshall County Building. Present were Commission Members David Hostetler, Terri Barnhart, Craig Cultice, Deborah Johnson, Brianna Slonaker, and Matt Miller. Plan Director Ty Adley, Lori Lowry Administrative Assistant, and Fred Webster the City of Plymouth Liaison were present along with interested parties. Members absent were Michelle Mieras, Chris Kline and Kevin Overmyer.

Minutes of the January 25, 2024, executive session meeting was presented. Ms. Johnson requested battery storage be added to the minutes. President Hostetler recommended the request be discussed with the board's attorney since it involves personnel review. **Ms. Slonaker made a motion to table to discuss request with the board's attorney, seconded by Mrs. Barnhart. Motion carried by acclamation.**

**Minutes of the January 25, 2024, meeting was presented. Mr. Cultice moved, and Mrs. Barnhart seconded the motion to approve the minutes as submitted. The motion passed by acclamation.**

The first item of business was 24-PC-02 ULRICH, David & Julie Williams - A request for Raven Creek Minor Subdivision a two-lot minor subdivision; located at: 15564 Redwood Rd. Culver, IN Union Twsp., Zoned T-1. Mr. Bob Alois of Territorial Engineering was present to represent the Ulrich request. Mr. Adley presented the findings of fact.

The Applicant owns a 5.1 acre parcel that is zoned T-1 Town Residential. The property is bound on two sides by railroad rights-of-way. The owner is seeking to subdivide the property into two parcels in order to create a new parcel for a family member to return to the area and live at. The minimum lot size is 1 acre with a minimum lot width of 60'. The proposed parcels are 2.8 and 3.88 acres respectively. All setbacks and minimum lot sizes have been met.

Ms. Slonaker made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being nobody to speak for or against Mr. Cultice moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

**Mrs. Barnhart made a motion to approve 24-PC-02 ULRICH, David & Julie Williams - A request for Raven Creek Minor Subdivision a two lot minor subdivision; located at: 15564 Redwood Rd. Culver, IN Union Twsp., Zoned T-1, seconded by Mr. Miller. Motion carried with a voice vote 6-0.**

The second item of business was 24-PC-03 BENNETT, Gary - A request for a 2 lot Myers Lakeview Minor Subdivision; located at: 14857 12th Rd. Plymouth, (50-32-19-000-017-000-018, 50-32-19-000-018-000- 018)Center Twsp., Zoned L-1. Mr. Gary Bennett of 14857 12<sup>th</sup> Rd. was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to approve a minor subdivision in order to adjust a lot line between his and the property next door owned by the Millers. The subdivision is required due to the limitations on administrative subdivisions. Should the property have been in the ag district, this process could have been simplified. The lot line is proposed to shift a variation of distances that will follow an existing driveway on the Miller property.

Mrs. Barnhart made a motion to open for public hearing, seconded by Mr. Cultice. Motion carried by acclamation. There being nobody to speak for or against Mr. Cultice moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

The applicant misunderstood where his property line was when he purchased the property. Ever since he purchased it, he's maintained the area. After an agreement between he and his neighbor they are pursuing moving the property line which in turn required a minor subdivision.

**Mrs. Barnhart made a motion to approve 24-PC-03 BENNETT, Gary - A request for a 2 lot Myers Lakeview Minor Subdivision; located at: 14857 12th Rd. Plymouth, (50-32-19-000-017-000-018, 50-32-19-000-018-000- 018)Center Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 6-0.**

The third item of business was 24-PC-04 Marshall County Plan Commission - Amend TRC Attendance Article 10 Administration 10.030.C Attendance Required.

The proposal is to amend the Zoning Ordinance as it pertains to the attendance requirements for Technical Review Committee meetings. The current ordinance reads as follows: "The petitioner and/or a representative of the petitioner shall be required to attend all Technical Review Committee meetings at which their petition shall be reviewed. If the petitioner or their representative is not present, the petition shall automatically be tabled and placed on the agenda for the next appropriate TRC meeting." Staff is initiating the proposal to follow current best practices and the logical requirements for applicants necessity for attendance. Staff currently does not see a reasonable reason to require applicants to leave work in order to attend a meeting where a specific case may only last 15 minutes or less when the application or conditions may be able to more easily address proposals. The proposed language is as follows:

"The petitioner and/or a representative of the petitioner may be required to attend all Technical Review Committee meetings at which their petition shall be reviewed. If the petitioner or their representative is not present, the petition may be tabled and placed on the agenda for the next appropriate TRC meeting." There may be times when a project of scale will necessitate the attendance of an owner or developer, but the intention is to reduce the unnecessary attendance of an applicant for small projects.

Mr. Miller made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation. There being nobody to speak for or against. Mr. Miller moved and Mr. Cultice seconded the motion to close the public hearing. Motion carried by acclamation.

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**Mr. Miller made a motion to approve 24-PC-04 Marshall County Plan Commission - Amend TRC Attendance Article 10 Administration 10.030.C Attendance Required and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mrs. Barnhart. Motion carried with a voice vote 6-0.**

The fourth item of business was 24-PC-05 Marshall County Plan Commission - An ordinance amending article 3, 6, and 13 to create a regulation for battery energy storage systems.

The plan director presented research on the following: IC 22-14-8, Grid-Scale Battery Storage FAQ, UL 9540, Siting and Safety Best Practices for Battery Storage Systems, Energy Storage in Local Zoning Ordinances, overview of local zoning ordinances for Battery Energy Storage Systems, Community Codes, NFPA855, Electromagnetic Fields and the ordinance proposal.

Currently within the Marshall County Zoning Ordinance there are little to no requirements for Battery Energy Storage Systems. The Plan Commission has advised the County Commissioners and there is currently a Moratorium in place prohibiting the application of Battery Energy Storage systems that is set to expire on October 16th, 2024. The Moratorium is set so that the Plan Commission can consider and determine appropriate building, zoning and use regulations which should be adopted and incorporated into the Marshall County Zoning Ordinance as the same pertain to Utility Scale Battery Energy Storage Systems. Battery Energy Storage Systems are the latest in a line of ordinances that the public has taken great interest in. The County ordinance currently only has a on-line reference under the existing solar ordinance as of early February 2024, but as battery technology has advanced and become a more viable stand-alone land use an ordinance is in need of being created should a project apply in Marshall County's zoning jurisdiction. The State of Indiana has adopted a process, procedure, and series of requirements that are to be adhered to for Battery Energy Storage Systems effective July 2023. Those requirements were reviewed along with the reference document NFPA 855 which set the standard for Battery Energy Storage Systems. The following proposal is based on the research of Indiana Code 22-14-8 (HEA 1173) "Utility Scale Battery Energy Storage Systems", National Fire Protection Association (NFPA) 855 "Standard for the Installation of Stationary Energy Storage Systems", articles by National Renew Energy Laboratory, UL Solutions (previously Underwriters Laboratories), Pacific Northwest National Laboratory, American Clean Power, along with multiple communities with existing battery storage ordinances outside of the state of Indiana due to the recent interest in the state of Indiana for such projects and the lack of ordinances dedicated to regulating them. One amendment per discussions with a local fire department has been included and can be best shown in the tract changes document. As better detailed in the PowerPoint presentation for the research from IC 22-14-8, Various Sources and Communities; Grid-Scale Battery Storage FAQ, UL 9540, Siting and Safety Best Practices for Battery Energy Storage Systems, Energy Storage in Local Zoning Ordinances, An Overview of Local Zoning Ordinances for Battery Energy Storage Systems, Community Codes, and NFPA 855 below is some basic information from analysis prior to writing the ordinance. Indiana Code now requires that the Department of Homeland Security regulate and approve all BESS projects beginning July 1, 2023 and shall be compliant with NFPA 855. It permits BESS projects within ½ mile of a floodplain so long as the structure is raised 2 feet above the floodplain (commonly known as flood protection grade). The operator shall provide copy of the emergency response plan and provide annual training for the fire department on their specific operation. Per the article "Siting and Safety Best Practices for Battery Energy Storage Systems" by Exeter Associates, there are three items that should be updated in current regulations of battery facilities and they fall into three categories; siting, safety and decommissioning. They were more detailed as: "The siting plan should address: undergrounding on site utility lines; maintaining the site free of vegetation; following noise, height, and setback requirements; fencing or enclosing the site; and installing screening or

other measures to minimize visibility impacts. The safety plan should include: hazard detection systems; means of protecting incipient fires; and ventilation and/or cooling strategies for protecting against thermal runaway, fires, and explosions. As a corollary, sound training must be provided to local responders so that they are equipped to handle any of these potential emergencies – which require substantially different tactics – as safely as possible. BESS should have plans to address extreme weather, earthquakes, or other environmental threats that may occur. The decommissioning plan should include: descriptions of the steps that will be taken, a cost estimate, a funding plan, and a contingency plan for handling damaged batteries.” The 4 communities that were reviewed in 3 states had the following standards of interest; Tier’s of Battery Storage, Reference to State Building Code and NFPA 855, Road Access, Clearance space Lighting for safety and security shall be shielded, 30’ clear space of vegetation in accordance with 855, Setbacks, Buffer, Fencing, Noise, Decommissioning Plan and Bond, SDS(safety data sheets), Emergency Operations Plan, Statement of Purpose, Applicability, General Requirements, and Utility lines. NFPA 855 is comprised of 15 chapters and 8 annex’s that have been around and amended every 3 years since the mid/late 1990’s. It covers topics including but not limited to; Definitions, Hazard Mitigation Analysis, System Interconnections, Commissioning, Operation and Maintenance, Firefighting Considerations, Decommissioning, and has a specific annex titled “Guide for Suppression and Safety of Lithium-Ion Battery Energy Storage Systems” which is beneficial because Lithium-Ion is the leading and most used technology when it comes to energy storage systems. The annex indicates that; “As an important first step in protecting public and first responder safety while promoting safe energy storage, the technical committee has developed this annex as a comprehensive set of guidelines for reviewing and evaluating LIB ESS facilities.” As well as “This annex provides details about the design, hazard evaluation, installation, operations, appropriate technology application, inspection, and first responder safety processes of LIB-based ESS.” The annex even goes on towards the end to indicate that through explosion modeling has shown that the minimum distance should be 75’. It is recommended increasing that to a minimum clearance of 100’. Then that a Recommend evacuating buildings withing a 200’ diameter of the battery energy storage system (BESS). There is potential for damage to glass in windows and structure depending on distance from the site. Each hazard will be different based on the state of charge at the time of the event. The Technical Review Committee met on Thursday February 1st and outside of its recommendation discussed later, indicated that some additional research would be beneficial on Electromagnetic Fields and Sound Frequency. Below is a brief synopsis for the analysis, but additional information is provided within the power point presentation. Included within the EMF and Sound frequency research were articles from the National Cancer Institute and National Institute of Environmental Health Sciences. NCI indicates that “electric and magnetic fields are invisible areas of energy (also called radiation) that are produced by electricity, which is the movement of electrons, or current, through a wire.” Electric and magnetic fields are referred to as EMF and there are two categories; high frequency (ionizing) and low to mid frequency (non-ionizing). High Frequency is a greater frequency than visible light beginning at approximately 10 to the 15th power of hertz (measurability of frequency). Low frequency is less than the visibility light spectrum from 0 to approximately 10 to the 15th power of hertz. As a point of reference power frequency is 50-60 hertz. A cell phone operates at approximately 1000 hertz or 10 to the 3rd power (per the NIEHS study). Per the NIEHS study, one of the topics included links of EMF to childhood leukemia, but “the association is weak and it is not clear whether it represents a cause-and-effect relationship.” The study further goes on to discuss relationships between EMF and heart rate, sleep electrophysiology, melatonin, and several more topics. These items have were researched post the recommendation of the proposal, should the Plan Commission identify a need for change in the ordinance as proposed, it can be reverted back to staff and/or the Technical Review Committee for additional consideration. For a user-friendly version of reading the ordinance see attached and/or associated power point.

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Mr. Miller made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.

1. Casey Neidlinger      16682 14B Rd.      Talked about fire risk increase.
2. Deb Vandemark      14750 Tulip Rd.      Passed out a packet and reviewed with the board her and Mr. Allyn's recommended proposals and changes to the proposed battery energy storage systems. Found out there has been another contract recording for a proposed battery storage.
3. Steve Barry      11239 Manor Dr.      Is representing Farm Bureau and concurs with the Council's recommendation of a 2-year moratorium of Farm Scale Solar and Battery Storage. Believes there are additional issues that need addressed.
4. Steve Gorski      805 Baker St.      Took noise decibel reading during meeting (50 decibels during meeting compared to battery storage sound of 50-80 decibels. Asked if there were any state codes to ban battery storage?
5. James Hingston      Long Beach CA      Lead developer at Tenasca. There are 3 areas in the ordinance they believe need revised. 1.) Setbacks excessive proposing-- Residential structures 200' and property lines 50'. Separate setbacks from non-residential properties are not necessary. Include a waiver between when there is an agreement between participating and non-participating landowners. 2.) There should be a waiver for interior line setbacks when property owners willingly developing their own land. 3.) Instead of commissioner's reviewing the bond and financial assurances every 3 years, rather than having discretionary approval every three years they suggest the updates and re-evaluations be done by an agreed upon third party to ensure the accuracy.
6. Tom Benson      Ohio      Listed his credentials and background. Believes Tenasca has met codes and Indiana regulations and standards.
7. John Grolich      As president of the county fire association last fall John and fire chiefs Terry Wakefield and Steve Holm met with Tenasca to become familiar with their project to see what they would offer as far as education that would offer benefits to the fire service. Tenasca seemed to meet Mr. Wakefield's concerns. They agreed to put in 2-3 10-12" wells at the sites if that's what was required by the fire service.
8. Greg Hildebrand      MCEDC      Battery storage is an important part of clean renewable energy.
9. Connie Nineinger      White County      Supports and came to help educate the county about renewables.
10. Janell Naylor      16541 Robert Ct.      Offered information about a fire with a battery storage system. Wants to know where the information from the ordinance was obtained from.
11. Patty Stallings      506 E. Lake Shore Dr      Received a letter about concern of solar power energy.
12. Gary Lewallen      Culver      Received an email about their concern of the toxicity of batteries and requests the ordinance needs to be specific and comprehensive.
13. Mary Faulstich      123 E. Maple St. Bremen      Doesn't see the need to rush and makes sense to have a moratorium.
14. Jim Pressel      State Representative      In support of the new battery storage project in Marshall County.

Mr. Miller made a motion to close the public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.



In addition to what was presented Mr. Miller requested additional information on the following:

- What options are available for the ongoing bond renewal and if a 3<sup>rd</sup> party is an option
- Liability insurance to protect neighbors
- Secondary containment system

The board came to a consensus that they would like additional time to review all the data presented and additional time to submit items for further review.

**Ms. Slonaker made a motion to table 24-PC-05 Marshall County Plan Commission - An ordinance amending article 3, 6, and 13 to create a regulation for battery energy storage systems until April 25<sup>th</sup> in order to allow the board more time to digest the information provided, seconded by Mrs. Barnhart. Motion carried with a voice vote 6-0.**

#### 2023 Plan Commission & BZA Annual Report

The Plan Director presented the 2023 Plan Commission and Board of Zoning Appeals Annual Report. In 2023 there were 1098 permits issued in comparison to 1072 issued in 2022. The valuation of permits for 2023 was \$145,320,000 which is more than \$94,210,229 in 2022. The coming year the department will continue keep up with the latest changes. Updates will include solar farms, battery storage, communication towers, billboards, carbon sequestration/capture, data centers and updating the subdivision ordinance.

There being no further business, a motion was made to adjourn and seconded. The motion was passed by a voice vote.

Respectfully submitted.

Craig Cultice,  
Secretary