

June 23, 2022
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:30 p.m. on Thursday, June 23, 2022, in Room 203 of the Marshall County Building. Present were: Commission Members Craig Cultice, Jon VanVactor, Matt Miller, Bob Yoder, Terry Barnhart, David Hostetler, Chris Kline, and Stan Klotz. Plan Director Ty Adley, and Lori Lowry Administrative Assistant were present along with interested parties.

Minutes of the April 28, 2022, meeting was presented. Mr. Hostetler moved, and Mr. Cultice seconded the motion to approve the minutes as submitted. The motion passed by acclamation.

The first item up for business was 21-PC-07 HOUIN, Herman & Connie - A request for a 29 lot primary major subdivision (East Shore Estates, LLC) on parcel # 50-43-07-000-014-000-005, East Shore Dr., Bremen, IN Zoned L-1. Mrs. Connie Houin of 547 Ballantyne, Gross Pointe Shores, MI and Tom Hardy of John Kimpel & Assoc. of 902 S. 325 E. Warsaw, IN was present to represent her request. Mr. Adley presented the findings of fact.

The East shore Estates subdivision has gone through several iterations, beginning with a 18 lot subdivision exclusively along East Shore Drive, transforming into a 25 lot L-shaped subdivision then ultimately in the 28 lot U-shaped subdivision that is before the Planning Commission. The subdivision spans 17.49 acres with an average lots size of 18,327 square feet (4/10ths of an acre). The U-shaped proposal provides 10 interior lots wrapped in a 60' Right of Way public road called Lakeview Drive. The drive is wrapped by 18 additional lots creating a boarder to the subdivision. There are 3 outlots designated for open space and future roadway. The developer does not have any intentions of turning Outlot C into an access road for future development, but the access is required under Subdivision Ordinance. The 60' right of way will provide for 2 5' sidewalks, 2 11' driving lanes, and roadside ditches. The lots will be served by the Lake of the Woods Sewer District and a capacity letter has been received by their Engineer. A detailed review of the Sanitary Plan is anticipated upon approval of the preliminary plan per the developer. The lots will all be held under the Zoning Ordinance District L-1 Lake Residential. The L-1 District includes the following development standards; minimum lot area 6,000 square feet, minimum lot width of 60', minimum single family residential area of 1,281 square feet, minimum front yard setback of 30', minimum rear yard setback of 20', minimum side yard setback of 10' or 10% of lot width. There will be sidewalks on both sides of Lakeview Drive as well as a 5' walkway that coincides with the sewer easement going to Elmira Street that will be able to connect to a future network around Lake of the Woods. Each lot within the subdivision will be required to have landscaping including 2 trees and shrubs prior to certificate of occupancy. The Southwestern corner of the property will be further screened with additional trees due to East Shore Drive being identified as a Collector Road. The two primary open spaces

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outlot A and outlot B are set aside as natural spaces for the residences of East shore Estates to enjoy privately. The area set aside is over 50,000 square feet for the residents to enjoy, although staff does not believe the design of the open space meets the intentions of the ordinance, the space as drawn meets the minimum requirements as set forth within the Subdivision Control Ordinance.

RECOMMENDATION: Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the 28 lot subdivision with the conditions that the comments that were discussed during the meeting and found in the comment letter sent after the TRC held on June 9th. Those comments include but are not limited to; adding sidewalks to both sides of Lakeview Drive, typographical fixes, and adjustments to plat and plan statements.

The original proposals didn't receive waivers for road access so they walked away from a small subdivision and felt forced into a larger subdivision to support the roads that were needed. The next plan was T shaped and later found out it was economically not feasible due to the fill that was needed. The current proposed subdivision is on top of a sand hill and slopes to the Mattingly Ditch. It is not economically feasible to develop this subdivision any further. The Houin's have other farm ground that will stay farm ground. They don't have any intentions to create additional subdivisions.

The applicants agree with the TRC recommendation with one modification to the plan being that no sidewalks be required in the subdivision for the following reasons:

1. Sidewalk provision 6.12 Subdv Ord. It is a permissive provision in the ordinance not a mandatory requirement. Therefore, there is no waiver needed. The Planning Commission has the ability to do that.
2. The purpose of the sidewalk plan states "reasonable access to sidewalk connecting all the communities facilities, commercial enterprises and other residential subdivisions near or adjacent thereto." Requiring sidewalks in this rural subdivision does not achieve any of those purposes set forth in the ordinance.
3. School buses do not enter subdivisions to pick up children. They will pick them up on East Shore Drive.
4. They are trying to provide reasonably priced lots and the additional cost would be \$4,000 per lot just for sidewalks and believes its an undue burden with no benefit.

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

1. Michael Zimmerman Lives in Englewood Park Subdivision and head of Englewood Park Association that was formed to fight the rights of the easements. Believes the ordinance was put in place to better the quality of subdivisions and sidewalks are included. There is currently legal discussions between the Houin's and Englewood Park Subdivision attorney regarding easement to the lake.
2. Scott Callantine Are these properties going to be marketed as lake access as they are concerned about the lake conservancy.
3. Jeff Saucier 3771 E. Shore Dr. The current condition of 4th Road is not good and if the egress is coming out on that road there is a concern. Questioned if these houses in the proposed subdivision will be tying into Lake of the Woods Sewer District. A lot of people walk daily around the lake and believes sidewalks would be an advantage.

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4. Betty Spruit 4450 E. Shore Dr. Have enough out of town people that use the lake access. Will all these houses be using that same access? Will 4th road be re-done or made wider?
5. Larry ? 4041 W. Shore Dr. Runs and walks around the lake. Believes it's important to have sidewalks for safety.
6. Gary Montague 7460 Ply Goshen Will this raise property taxes?
7. Mary Lee Vanvactor 1106 Michigan Rd Mom owns a house in this area and the siblings are in charge of it. Will this affect property taxes? With all the additional houses will the towns fire department cover these additional houses? Will sewer bills be going up?
8. Joan Gunterman (letter) 3615 Lakeshore Strongly oppose this subdivision for increase in traffic, safety of children and pedestrians especially if there are no sidewalks. Concerned about increase in costs of utilities and taxes. Also questions whether they will propose another subdivision down the road.
9. Mildred Sullivan (letter) 8403 North Shore Opposes the request due to increase in traffic, safety of children and pedestrians especially if there are no sidewalks. Concerned about increase in costs of utilities and taxes. Also questions whether they will propose another subdivision down the road.
10. LOW Sewer District P O Box 455 Lake of the Woods Sewer District has reviewed the districts available capacity. Based on their review the addition of 29 homes to the districts system will increase the average daily volume by less than 9,000 gallon per day. The system was planned for 135,000 gallons per day. Currently the volumes are below 50,000.
11. Paul Wehrman Opposes the request as it will bring increased traffic and congestion near their home that is not wanted.
12. ? letter with no name or address

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

Mr. Yoder questioned the board if they should allow letters that don't have names or addresses and the board president was in agreement that they shouldn't be read as part of record.

Mrs. Houin had the following responses to comments:

1. The sewer district is not even at 50% with the additional 28 house lots that doesn't even bring it up to its 50% capacity.
2. Herman and Connie Houin have not been paid for any water issue around Lake of the Woods.
3. The easements are not part of this subdivision project nor has anything been put in writing of such. The easement lots are for sale. The neighbors have all been informed that they are for sale. A neighboring property has contacted her about purchasing one. Which leaves three yet for sale. Has no intention of buying the lot at the lake that's up for sale for either.
4. The marketing of the proposed lots say nothing about deeded access to the lake.
5. The drainage runs south and east. A large drain system has been put in place that should shed water away from the lake to the detention pond.
6. Mr. Hardy stated that the Houin's are going to pay for their own sanitary sewers connections which will then be paying into the sewer district. Believes it should help the tax base in the county.

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7. With regard to sidewalks the purposes set forth in the ordinances are not met here there is nothing to walk to such as commercial enterprises, parks or other subdivision areas. All it would be is a loop of sidewalk connected to nothing that would cost the future owners \$4,000 per lot with no benefit. If the Plan Commission would consider an alternative of increasing the size of the road by 5' to allow for additional walk area. It would address having ditches a little deeper, better access for firetruck access and the driveway issue as an alternative to sidewalks. They would go from 22' to 28' wide pavement. Doing away with sidewalks will help the side ditches and the slopes on the street.

When asked to comment on the ordinance requirement Mr. Adley stated that the ordinance says it's a permissive standard and is up to the TRC to make that determination/recommendation as far as to have or not to have the sidewalks. The TRC is recommending sidewalks. This proposal of widening the road came after the TRC met and made that recommendation.

Mr. Yoder felt that having children walk in the roadway to wait for the bus amongst cars going in and out is unacceptable.

Mrs. Houin said that the children will be picked up by the bus on East Shore Rd. from the pedestrian walkway between lots #2 and #3. Mr. Yoder replied that the children will still have to walk in the roadway to get to this walkway.

Mr. Cultice said if you have a wider street there will be people parking in the street will require children to be walking out and around the cars to continue your path.

The lots are long which is approximately 50' of driveway. This will allow plenty of parking in the driveway. The Houin's are willing to post no parking in the streets if the board desires.

Mr. Klotz brought up that the County Commissioner's aren't required to accept this road. Mr. Adley stated that there are standards and a maintenance period to ensure the construction of the facility is up to standard. If the road is not accepted by the County Commissioner's, it would be considered a private road and the property owners would be required to maintain it.

Mrs. Houin stated that there is a HOA provision, but the plan is to have the roads public at this point in time. They will be built to code and meet code.

Technically the County will not have responsibility of the road until the road meets the requirements and the developers will be responsible for the roads until that time whether its 3 or 5 years whatever is required by the MCHD.

Mr. Klotz stated there was two years' worth of road work done in one year around the lake. It is looking like it will be another couple years before work will be done to 4th Road.

There was a confirmation by Mr. Adley that Jason Peters, Marshall County Highway Department Official said he preferred there not be sidewalks and be put outside the right of way within the lot space of individual homes.

Mr. Yoder made a motion to approve 21-PC-07 HOUIN, Herman & Connie - A request for a 29 lot primary major subdivision (East Shore Estates, LLC) on parcel # 50-43-07-000-014-000-005, East Shore Dr., Bremen, IN Zoned L-1 including the recommendation of the above

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mentioned TRC with special attention to the requiring of sidewalks, seconded by Mr. Cultice. Motion carried with a voice vote 8-0.

2023 Proposed Planning Commission Budget

Mr. Adley proposed the budget with the recommendation of wage increase per the MC Auditor, an additional \$7000 for the Code Enforcement Officer to go from 2 days a week to 3 days a week, and an additional increase for longevity. In addition to the above there will need to be an increase in the per diem request as the original budgeted amount didn't reflect the 2022 rate jump from \$50 per meeting to \$75.

An update was given on permits, cases and projected income.

The board discussed the plan directors job description has him working from 8-4 which is 35 hours per week. With that being said he is not being compensated for the additional hours he works for the evening meetings. It was discussed his average hours worked would average out to be more like 37 hours plus per week rather than 35. The board was all in agreement to propose an increase in his job description from 35 to 37 hours per week.

Mr. Yoder made a motion to request the County Council to adjust his job rating from 35 to 37 hours per week because that is what he consistently does work throughout the year, seconded by Mrs. Barnhart. Motion carried by acclamation.

Mr. Hostetler made a motion to amend the proposed budgeted amount from \$50 to \$75, seconded by Mr. Miller. Motion carried by acclamation.

Comprehensive Plan

Updating the comprehensive plan will provide a greater opportunity to look at what direction we want to take Marshall County to. The last approximately ten years ago and a lot has changed since. Updating the comprehensive plan also allows for additional grants for funding into the county.

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

Respectfully submitted.

Bob Yoder