

January 26, 2023
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

Vice - President, David Hostetler, called the Marshall County Plan Commission meeting to order at 7:30 p.m. on Thursday, November 17, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Terri Barnhart, Craig Cultice, David Hostetler, Deborah Johnson, Christopher Kline, Michelle Mieras, Matt Miller, Kevin Overmyer, Bob Yoder, Plan Director Ty Adley, and Lori Lowry Administrative Assistant were present along with interested parties.

Mr. Adley swore in the new and returning Planning Commission Members: Ms. Mieras, Ms. Barnhart, Mr. Overmyer, Mr. Hostetler, and Ms. Johnson.

The first item of business was the election of officers for the Marshall County Plan Commission.

- **President** Mr. Overmyer made a motion to nominate David Hostetler as President of the Marshall County Plan Commission, seconded by Mr. Cultice. Motion carried by acclamation.
- **Vice President** Mr. Cultice made a motion to nominate Matt Miller as Vice President of the Marshall County Plan Commission, seconded by Ms. Mieras. Motion carried by acclamation.
- **Secretary** Mr. Overmyer made a motion to nominate Craig Cultice as the Secretary of the Marshall County Plan Commission, seconded by Ms. Mieras. Motion carried by acclamation.
- **TRC Committee** Mr. Overmyer made a motion to nominate Craig Cultice, Terri Barnhart, Deborah Johnson and Bob Yoder as members of the Technical Review Committee, seconded by Mr. Miller.
- **BZA Alternate** Ms. Barnhart made a motion to nominate Chris Kline, Bob Yoder, and Michelle Mieras as Board of Zoning Appeals alternates, seconded by Mr. Overmyer. Motion carried by acclamation.
- **Board Atty** Mr. Hostetler made a motion to retain Derek Jones with Jones Huff & Jones as board attorney, seconded by Mrs. Barnhart. Motion carried by acclamation.
- **Plymouth Liaison** Mr. Overmyer made a motion to nominate David Hostetler as the Liaison for the City of Plymouth, seconded by Mr. Kline. Motion carried by acclamation.

Minutes of the November 17, 2022, meeting was presented. Ms. Barnhart moved, and Mr. Cultice seconded the motion to approve the minutes as submitted. The motion passed by acclamation. Mr. Overmyer abstains as he is a new member.

The first item of business was 23-PC-01 WOOLLEY, Mary - A request by Deane Norris for a 2 lot minor subdivision; located at: 13360 5th Rd., Plymouth, IN North Twsp., Zoned A-3. Mr. Dean Norris of 13300 5th Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to purchase a 7.35 acre parcel from a 9.75 acre property owned by Terry L & Mary J Woolley. The property is represented by Karla Glore. The Woolley's would retain 2.11 acres. The residual (0.29 acres) from the 7.35 and 2.11 acre parcels are proposed to be dedicated to the County Commissioners for half of the Right of Way of 5th Road. The A-3 Agricultural Residential District allows for a density of 1 acre area per residential unit and 1 acre minimum lot area. Lot 1 and Lot 2 will meet both of those regulations.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval with the conditions that the septic concerns of location of existing and available space for a replacement system be cleaned up and any concerns of minimum information on the minor subdivision be corrected at the guidance of the Plan Director and County Surveyor.

Mr. Norris, neighbor to the east, was contacted by Ms. Woolley to see if he would like to purchase their land. It is her intent to keep 2 of the acres with the existing two houses.

Mr. Norris is in the process of purchasing this property and will proceed as long as this request is approved by the board. The POA, Ms. Glore, is pretty sure the septic system is contained on the proposed 2 acre parcel. If for any reason it is not they are aware lot lines will need to be adjusted. Even with new lot lines the planning department doesn't see any viewable infraction with the existing two houses. Ms. Glore's intent is to retain the largest house and in the event they needed a new septic the smaller house would not be removed and a septic would be placed in that location.

Mr. Norris is asking for the approval of the subdivision itself. As long as the Plan Commission approves the request the plat will be signed once there are a few edits and the document meets the requirements. One of the edits would be to place a condition on the approval of the subdivision making sure the septic systems are correctly located on the property. If there needs to be a correction it could possibly change the acreage. Once all the amendments are made the proposed subdivision will then go to the County Commissioners to get their final approval.

Mrs. Barnhart 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. Overmyer moved and Mr. Kline seconded the motion to close the public hearing. Motion carried by acclamation.

Mrs. Barnhart made a motion to approve 23-PC-01 WOOLLEY, Mary - A request by Deane Norris for a 2 lot minor subdivision; located at: 13360 5th Rd., Plymouth, IN North Twsp., Zoned A-3 and forward to the Marshall County Commissioners with a favorable recommendation with the condition of septic approval, seconded by Mr. Miller. Motion carried with a voice vote 9-0.

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The second item of business was 23-PC-02 MOORE, John - A request by Joy Moore Swinehart to petition for zoning change from T-1 to C-1 to allow a new buyer to run a small automotive business out of the property; located at: 1020 N. Michigan Rd. Lakeville, IN North Twsp. Zoned T-1.

There was nobody in attendance to represent the John Moore request. Mr. Miller made a motion to table the request, seconded by Mr. Cultice. Motion carried with a voice vote 9-0.

The third item of business was 23-PC-03 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance Site Development Plan Exemptions Article 7.020.B Exemptions Add: 5. Demolition.

In the application of the ordinance, site development plans take place within Lake, Commercial, and Industrial properties. These plans go through the Technical Review Committee unless they are found within the exemptions. The Ordinance currently reads as: Article 7.020.B Exemptions The following types of development shall be exempt from the requirements of this Article, but shall be required to obtain an Improvement Location Permit and any other permit or approval required by this Ordinance: 1. Sign Installation The replacement or installation of any sign(s) not occurring as part of an improvement to any other aspect of the property; 2. Parking Lot Expansion The expansion of an existing parking lot which does not result in a greater than ten percent (10%) or two thousand (2,000) square foot, whichever is less, increase in the surface area of the parking available on the property on the effective date of this Ordinance, exclusive of the alteration or expansion, or the need for modifications to street accesses; or 3. Structural Expansion The expansion of an existing structure or the construction of an accessory structure which does not result in a greater than ten percent (10%) increase in the floor area of the structures on the effective date of this Ordinance, exclusive of the alteration or expansion, and does not require the provision of additional landscaping, parking, or other improvement regulated by this Ordinance. 4. Interior renovations and Roof permits. The proposal is to add "5. Demolition" to the ordinance. This would no longer require a TRC meeting for demolition of structures within the Lake, Commercial, and Industrial zoning districts. This will assist in ensuring that projects can continue to move at as fast a rate as logically possible.

During TRC discussion the Health Administrator requested that they be notified of demolition permits. This will ensure that the Health Department inspects the wells and make sure they are all capped off.

The Planning Department will administratively handle how the notification process will take place and work with the Health Department.

Mr. Miller 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. Overmyer moved to close the public hearing and seconded by Mrs. Barnhart. Motion carried by acclamation.

Mrs. Barnhart made a motion to approve 23-PC-03 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance Site Development Plan Exemptions Article 7.020.B Exemptions Add: 5. Demolition and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mr. Kline. Motion carried with a voice vote 9-0.

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The fourth item of business was 23-PC-04 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance Article 3 for T-1 Town Residential District, L-1 Lake Residential and C-1 Commercial District.

Based on a series of BZA meetings involving cases for side yard setback reduction, there is a need to update the ordinance to provide some additional information for side yard setbacks in the T-1 Town Residential, L-1 Lake Residential, and C-1 General Commercial Zoning Districts. Currently for Town and Lake Residential, the minimum side yard setback is 10' or 10% of lot width, whichever is less. This can mean that setbacks go down to 3-4' in separation from eave and the property line. This can begin to create a safety concern because there are more strict regulations when homes are less than 10' from one another. In order to assist in keeping homes further apart and promote additional safety, the proposal is for Lake and Town Residential districts to have a minimum side setback distance of 5'. The commercial district currently allows for 0' setback when adjoining C-1 or 20' when not adjoining C-1 property. The proposal is to limit the 0' side setback to within a downtown area. This will promote more developable space in the downtown areas, meeting historical design and restricting sprawling growth that will struggle to maintain the sidewalls of the structure.

Mr. Overmyer 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. Overmyer motioned to close the public hearing, seconded by Mr. Kline. Motion carried by acclamation.

After a question from the board the plan director clarified on lake lots and where the 10'/10% rule applies the proposed minimum standard of 5' side yard setback will only affect parcels less than 50' in width.

Mr. Overmyer 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. Overmyer moved to close the public hearing, seconded by Mr. Kline. Motion carried by acclamation.

Mr. Kline made a motion to approve 23-PC-04 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance Article 3 for T-1 Town Residential District, L-1 Lake Residential and C-1 Commercial District and forward to the Marshall County Commissioners with a favorable recommendation, seconded by Ms. Mieras. Motion carried with a voice vote 9-0.

The fifth item of business was 23-PC-05 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance Article 9.070.B Expiration.

The ordinance currently reads: Article 9.070.B Expiration A special exception or variance ceases to be authorized and is expired if an Improvement Location Permit for the execution of the approval has not been obtained within one (1) year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Plan Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within two (2) years of the date the approval is granted. In a separate section of the ordinance it reads as; Article 11.060.F Expiration of Permits Improvement location permits shall expire consistent with the following provisions 1. Initiation of Work If the work described in

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any improvement location permit has not begun within six (6) months from the date of issuance, said permit shall expire; no written notice shall be given to the persons affected. 2. Completion of Work If the work described in any improvement location permit has not been completed within two (2) years of the date of its issuance, the permit shall expire; no written notice shall be given to the persons affected. a. The Plan Director may grant two (2) extensions for up to one (1) year each for work completion. Requests for extensions must be received within one (1) month of the expiration. b. No extension shall be granted unless all appropriate extension fees, as defined by the adopted fee schedule, are paid to the Plan Director and the project continues to conform with all applicable requirements of Marshall County. The way that this compares is in short is if you meet all the requirements, you have 6 months to start construction and 2 years to finish from the date of permit approval. If you had to receive a variance your 2 year time frame is the date of BZA approval and not from permit approval. So therefore the proposal would be to revise the ordinance to read as; Article 9.070.B Expiration A special exception or variance ceases to be authorized and is expired if an Improvement Location Permit for the execution of the approval has not been obtained within one (1) year of the date the variance or special exception is granted. This amendment would also allow for projects with variances to receive extensions due to a variety of factors.

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. Overmyer moved to close the public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

Mrs. Barnhart made a motion to approve 23-PC-05 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance Article 9.070.B Expiration and forward to the Marshall County Commissioners with a favorable recommendation, seconded by Mr. Cultice. Motion carried with a voice vote 9-0.

The sixth item of business was 23-PC-06 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance 6.220.D3.e Setback distance from the center of a tower.

The existing ordinance for Communication Tower height reads as; 6.220.D.3.e: "The Setback distance from the center of the proposed facility/tower to the nearest recorded parcel line shall be 60% of the height of the facility/tower." The Indiana Code reads as; 8-1-32.3-17: "(b) A permit authority may not impose a fall zone requirement that: (2) is larger than the area within which the wireless support structure is designed to collapse, as set forth in the applicant's engineering certification for the wireless support structure." Due to the wording in the Indiana Code, this is going to result in a need to revise the Zoning Ordinance. The proposal is to reword the zoning ordinance section to; 6.220.D.3.e: "The Setback distance from the center of the proposed facility/tower to the nearest recorded parcel line shall be 60% of the height of the facility/tower or may be setback no closer than the designed fall zone as prepared by a certified engineer."

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

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Ms. Mieras made a motion to approve 23-PC-06 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to the Zoning Ordinance 6.220.D3.e Setback distance from the center of a tower and forward to the Marshall County Commissioners with a favorable recommendation, seconded by Mr. Overmyer. Motion carried with a voice vote 9-0.

The seventh item of business was 23-PC-07 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to re-order the Subdivision Ordinance.

The department is getting ready to work with a committee to rewrite the Subdivision Ordinance. This is the first step by putting the chapters in a more proper and logical order. The ordinance is currently order as follows; General Provisions Minimum Development Standards Subdivision Procedures Major Subdivisions Minor Subdivisions Street Design Standards and Street Improvements Water Facilities Sewage Facilities Erosion Control and Landscaping Early Warning Sirens Parcel Lot Splits Administration and Enforcement Definitions Appendix A Appendix B Appendix C Appendix D The proposal is to switch it to; General Provisions Subdivision Procedures Major Subdivisions Minor Subdivisions Parcel Lot Splits Minimum Development Standards Street Design Standards and Street Improvements Water Facilities Sewage Facilities Erosion Control and Landscaping Early Warning Sirens Administration and Enforcement Definitions Appendix A Appendix B Appendix C Appendix D.

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. Overmyer moved to close the public hearing, seconded by Mr. Cultice. Motion carried by acclamation.

Mr. Miller made a motion to approve 23-PC-07 MARSHALL COUNTY PLAN COMMISSION - The Marshall County Plan Commission is requesting an amendment to re-order the Subdivision Ordinance with a favorable recommendation to the Marshall County Commissioners, seconded by Mrs. Barnhart. Motion carried with a voice vote 9-0.

US 30 and 31 Planning Committee Update

The committee is compiling information and finalizing an actual document plan with MACOG to present first to the Marshall County Commissioners. Once it goes through the Commissioners it will ultimately go through US 30 and US 31 Coalitions as well as INDOT for the Propel Study. Their plan to present is sometime in February.

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

Respectfully submitted.

Matt Miller