

**WHITLEY COUNTY PLAN COMMISSION**  
**REGULAR MEETING MINUTES**  
**WEDNESDAY, MAY 20, 2020, 7:00 P.M.**

**MEMBERS PRESENT**

Thor Hodges  
John Johnson  
Mark Mynhier  
Tom Western  
Joe Wolf  
Brad Wolfe  
John Woodmansee (Electronic)  
Doug Wright

**MEMBERS ABSENT**

**LEGAL COUNSEL**

Sam Ladowski

**STAFF**

Nathan Bilger  
Mark Cullnane

**VISITORS**

Twenty-seven visitors signed the guest list at the May 20, 2020 Whitley County Plan Commission meeting. The original guest list is kept on record in the Columbia City/Whitley County Planning & Building Department.

**PUBLIC HEALTH PRECAUTIONS RELATED TO COVID-19 PANDEMIC**

Mr. Bilger stated that public health precautions have been implemented to stop the spread of COVID-19. These precautions include limiting the number of people who can be in the meeting room at any one time, maintaining social distancing, making personal protective equipment available, and broadcasting the meeting electronically and providing electronic attendees an opportunity to submit questions or comments. He stated that the Commissioners Room was open for overflow seating in the event that the meeting room was at capacity and that staff would provide extra time between cases for people to move between rooms.

**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. Woodmansee participated electronically.

**CONSIDERATION AND ADOPTION OF THE JANUARY 15, 2020 MEETING MINUTES**

The February 19, 2020 regular meeting minutes were presented for approval. Mr. Western made a motion to approve the minutes as presented. Mr. Wolfe seconded the motion. The motion was approved by a roll call vote of 6-0-1, with Mr. Johnson abstaining.

## **ADMINISTRATION OF THE OATH TO WITNESSES**

Approximately 14 guests were sworn in by Mr. Ladowski. Two guests registered for the online broadcast. 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-4**

Keith and Linda Robinson requested a secondary replat of Lot 9, Legacy Preserve, Phase 2. The proposed replat would create a reconfigured Lot 9 and create a new lot, Lot 13. The subject property is located on the northeast corner of E. Heritage Trail and S. Legacy Court in Section 1 of Jefferson Township. The property is zoned RR, Rural Residential, and contains approximately 37.501 acres.

Mr. Bilger stated that this petition was originally scheduled for the February meeting, but was continued to March for lack of notice. The cancellation of the March and April Plan Commission meetings due to public health precautions related to COVID-19 has resulted in the petition being delayed until this meeting.

Mr. Bilger reviewed the staff report and presented the preliminary plat and aerial images of the property. He stated that the plat needs to be cleaned up prior to secondary approval. He stated that the Commission should review whether the proposed Lot 13 would have frontage on a public road, as required by the Whitley County Zoning Ordinance, due to the fact that Heritage Trail is not yet a public road. He reviewed the history of replats at Legacy Preserve, discussed issues related to Heritage Trail's noncompliance with County Highway specifications for a public road, and reviewed suggested conditions.

Mr. Wright asked the Commission if it had any questions for Mr. Bilger. Hearing none, Mr. Wright asked the petitioner or their representative to address the Commission.

Rob Kruger, 200 E. Main Street, Suite 1000, Fort Wayne, of Burt, Blee, Dixon, Sutton & Bloom, LLP addressed the Commission on behalf of the petitioner. Mr. Kruger stated that Mr. and Mrs. Robinson are requesting approval of a replat of Lot 9 in Legacy Preserve so as to meet demand for a new lot in the subdivision. He stated that both Lot 9 and Lot 13 will each have their own driveways. Mr. Kruger addressed the characteristics of the lot in the context of the state statute that governs plats.

Mr. Hodges asked if there will be a shared driveway. Mr. Kruger stated that there will not be a shared driveway.

Mr. Western asked if petitioner knew when they expected to install a drive for proposed Lot 13. Mr. Kruger stated that the new owner of proposed Lot 13 would be responsible for installing a driveway.

Kevin McDermit, 1017 S. Hadley Road, Fort Wayne, of Loughheed & Associates addressed the Commission on behalf of the petitioner. Mr. McDermit addressed many of the County Engineer's concerns that Mr. Bilger discussed during presentation of the staff report. Mr. McDermit stated that he has worked with Mr. Bilger and Brandon Forrester, County Engineer, on a plan of action for addressing drainage issues at Legacy Preserve. He stated that the drainage improvements have not yet been made, but will be as part of completing the street to the Highway Department's specifications.

Mr. Wolfe and Mr. McDermit discussed what needs to occur for the street to be completed. Mr. McDermit stated that the developer is waiting to place the surface layer of the street until most of the homes in the development are built. Mr. Wolfe asked if the County plows Legacy Court and Heritage Trail. Mr. McDermit stated that Mr. Robinson plows those streets.

Mr. McDermit stated that he wanted to make a correction to a statement made by Mr. Kruger. He said that Lot 9 and proposed Lot 13 will share a drive for a short distance off the cul-de-sac at Legacy Court and Heritage Trail. He stated that the comments from the County Engineer had been addressed in the most recent version of the preliminary plat.

Mr. Western asked if there is a construction drive to reach the proposed Lot 13. Mr. McDermit stated that there is not.

Mr. Wolfe asked if there had been in the past an issue with a broken county drainage tile in or around Legacy Preserve. Mr. McDermit stated that there was an issue with a broken tile and that the petitioner had resolved the situation by fixing the tile.

Mr. Wright asked the Commission if it had additional questions. Hearing none, he asked the public if it had any questions or comments. Mr. Bilger stated that no questions or comments had been submitted by electronic participants. Hearing no questions or comments from the public, Mr. Wright closed the public hearing.

Mr. Wolfe asked Mr. Bilger when the last time was that the County Engineer was in Legacy Preserve to check on the road and drainage. Mr. Bilger stated that he did not know when the County Engineer was last on site.

Mr. Western stated that approval of the petition should include a condition stating that the road has to be completed to the standards of the County Engineer.

Mr. Wolf expressed concern with how long the development of Legacy Preserve has taken. He stated that he did not understand why the development was not done in phases and why a construction drive was not placed.

Mr. Wolfe and Mr. Western discussed drainage issues in the subdivision.

Mr. Bilger, Mr. Ladowski, and the Commission discussed the possibility of adding a condition requiring the County Highway Department's approval of the street prior to secondary plat approval or recordation of the plat.

Mr. Wright asked the Commission if it had additional questions of the petitioner. Hearing none, he asked the public if it had any questions or comments. Mr. Bilger stated that no electronic attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, he closed the public hearing.

Mr. Woodmansee made a motion to approve 20-W-SUBD-4 with the following conditions:

1. Easements, dimensions, text, etc. must be corrected on the secondary plat (with review by Parcel Committee prior to recordation).
2. The plat title is subject to approval based on the Recorder's specifications.
3. Secondary plat approval delegated to Plan Commission staff after approval by the County Engineer.

Mr. Wolfe seconded the motion.

Mr. Bilger stated that the petitioner's engineer had indicated that he would like to make a statement. Mr. McDermit stated that the original letter of credit in place from the original street construction requires approval of the County Engineer. Mr. McDermit and Mr. Western briefly discussed the terms of the letter of credit.

Hearing no further discussion, Mr. Wright called for a roll call vote. The motion was approved unanimously by a roll call vote of 8-0, with Mr. Woodmansee voting electronically.

Mr. Bilger stated that there would be a short delay prior to hearing the next item on the agenda to allow attendees to leave or enter the room.

## **NEW BUSINESS**

### **2. 20-W-SUBD-5**

Jill Marie Hoffman requested primary plat approval of a 1-lot subdivision proposed to be called Suonard's Reserve. The subject property is located on the west side of S. 300 West, approximately 1/3 mile south of W. 350 South, in Section 30 of Columbia Township. The property is zoned AG, Agricultural District, and contains approximately 4 acres.

Mr. Bilger stated that this petition was originally scheduled to be heard at the Commission's March meeting, but was continued due to lack of notice. The cancellation of the April Plan Commission meeting due to public health precautions related to COVID-19 resulted in the petition being delayed until this meeting.

Mr. Bilger reviewed the staff report and presented the preliminary plat and aerial images of the property. He said that the remainder of the parent parcel would need to be combined with an adjacent parcel to prevent creation of a parcel that would not have frontage along a public road. He stated that platting is required in this case due to previous splits from the parent tract. He said that the County Engineer stated in his submitted comments that there would likely be restrictions

on placement of a driveway due to the topography of the proposed parcel. He reviewed the suggested conditions of staff.

Mr. Wright asked the Commission if it had any questions for Mr. Bilger. Hearing none, Mr. Wright asked the petitioner or their representative to address the Commission.

Kent Hoffman, 2690 W. 350 South, Columbia City, stated that he was representing the petitioner. Mr. Hoffman stated that the petitioner was interested in splitting off property to sell to a family interested in building a home in rural Whitley County and that the remaining 14 acre parcel would be combined with a roughly 30 acre parcel directly to the north that is owned by Hoffman Farms Inc. Mr. Wright asked the Commission if it had any questions or comments for the petitioner. Hearing none, Mr. Wright asked if any members of the public had any questions or comments for the petitioner.

Brad Hull, 1870 W. 800 South, Columbia City, stated that he owns a 100 acres± parcel directly to the south of the subject property. He said that he was concerned with the placement of a driveway, but that his concerns had been addressed during presentation of staff report. Mr. Hull added that there was a natural waterway near to the southern end of the subject property and that he was concerned with potential negative impacts on drainage in the event that this natural waterway was disturbed.

Shane Hietbrink, 3701 S. 300 West, Columbia City, asked where the proposed driveway and house would be located. Mr. Hietbrink and Mr. Hoffman discussed the proposed location of the house in relation to Mr. Hietbrink's driveway and home on the east side of S. 300 West.

Mr. Wright asked the Commission if it had additional questions of the petitioner. Hearing none, he asked the public if it had any questions or comments. Mr. Bilger stated that no electronic attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, he closed the public hearing.

Mr. Western stated that he remains concerned about subdivisions in the AG (Agricultural) district, but that they are within the bounds of law.

Mr. Western made a motion to approve 20-W-SUBD-5 with the following conditions:

1. The remainder parcel must be combined with an adjacent parcel so as to not be landlocked.
2. Secondary plat approval delegated to the Plan Commission staff.

Mr. Johnson seconded the motion.

Hearing no further discussion, Mr. Wright called for a roll call vote. The motion was approved unanimously by a roll call vote of 8-0, with Mr. Woodmansee voting electronically.

### 3. 20-W-SUBD-6

Steven and Kathleen Linvill requested primary plat approval of a 1-lot subdivision proposed to be called Miami Ridge. The subject property is located on the south side of E. 600 North, approximately ½ mile east of N. 450 East, in Section 8 of Smith Township. The property is zoned AG, Agricultural District, and contains approximately 4.66 acres.

Mr. Bilger stated that this petition was originally scheduled to be heard at the Commission's April meeting, but was continued due to public health precautions related to COVID-19.

Mr. Bilger reviewed the staff report and presented the preliminary plat and aerial images of the property. He briefly discussed the history of splits from the parent tract and stated that platting is required due to those previous splits from the parent tract. He said that the remainder parcel is exempt from platting as it is greater than 20 acres. He stated that the proposal appears to meet the requirements of the zoning code and reviewed staff's suggested conditions.

Mr. Hodges asked Mr. Bilger to delineate the extent of the proposed plat on the aerial as displayed for the presentation of staff report. Mr. Bilger described the boundaries of the proposed plat on the displayed aerial. Mr. Hodges asked if this would create another long driveway off E. 600 North. Mr. Bilger stated that the petitioner should address this question.

Mr. Wright asked the Commission if it had any questions for Mr. Bilger. Hearing none, Mr. Wright asked the petitioner or their representative to address the Commission.

Steve Linvill, 123 W. 500 North, Columbia City, discussed the proposed split and stated that he and his wife are interested in creating a new parcel to sell to a buyer interested in purchasing property suitable to build a home. Mr. Linvill addressed the Health Department requirements and stated that he has been in contact with a soil scientist to make arrangements for soil tests to be conducted. Mr. Linvill asked if the Commission had any questions for him.

Mr. Hodges asked if the new lot would share a driveway with the parcel to the west, 5024 E. 600 North, or if a new driveway would be constructed. Mr. Linvill stated that the current plan is to have two adjacent driveways.

Mr. Wright asked for more information about a 1 acre± parcel, owned by Michael and Mindy Barnhart, directly to the west of the proposed lot. Mr. Bilger stated that Mr. and Mrs. Barnhart also own an adjacent property, 5024 E. 600 North, and so the 1 acre± parcel would not be landlocked.

Mr. Wright stated the Commission received a public comment expressing concern that a proposed driveway would exacerbate drainage problems in the area of the parent tract that abuts E. 600 North. Mr. Wright asked Mr. Linvill if the proposed drive would run through an area that typically holds water. Mr. Linvill stated that the area may have accumulated water in the past days, but that it does not hold water for extended periods of time. Mr. Wolf stated that there is an area east of the existing driveway for 5024 E. 600 North that regularly holds water, occasionally resulting in water overtopping the roadway.

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

Sharon Smith, 4960 E. 600 North, Columbia City, stated that she is concerned with drainage and with the placement of additional wells and septic systems in the area.

Todd Gross, 5460 E. 600 North, Columbia City, stated that water overtops E. 600 North at least four times per year in that area. He stated that driveways do not hold water, but that the placement of more of them could be detrimental to drainage in the area. He added that he is concerned with drainage and that it will need to be addressed at some point in the future.

Mr. Hodges asked Mr. Gross to explain the drainage situation in the area of the proposed lot in greater detail. Mr. Gross discussed drainage issues in the area.

Christina Kanis, 5180 E. 600 North, Columbia City, stated that she is concerned with flooding of the field and roadway. Ms. Kanis stated that placement of another driveway near the existing driveway for 5024 E. 600 North would be dangerous as the topography makes it difficult to see vehicles entering/leaving the existing driveway.

Donald Williams, 5221 E. 600 North, Columbia City, stated that he is concerned with flooding of the field and roadway. He added that drainage in the area must be addressed or it will get worse.

Rhonda Salge, 5464 N. 650 East, Churubusco, stated that the area floods regularly and that she is concerned with drainage in the area. She added that there are too many houses in the area. Ms. Salge questioned agricultural protections in the County and discussed agricultural protections in Noble County.

Todd Gross, 5460 E. 600 North, stated that there is a private tile in the area along E. 600 North. Mr. Hodges asked Mr. Gross for his opinion on what could be done to improve drainage in the area. Mr. Gross discussed options for improving drainage in the area.

Mr. Wright asked the public if it had additional questions or comments for the petitioner. Mr. Bilger stated that no electronic attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, Mr. Wright closed the public hearing.

Mr. Bilger displayed an aerial image of the area with topographic contour lines to better describe the lay of the land to the Commission and the public.

Mr. Wright asked if driveway approval and approval of septic and well are required prior to issuance of a building permit. Mr. Bilger stated that those approvals are needed.

Mr. Wright asked the Commission if it had additional questions or comments for Mr. Bilger or the petitioner.

Mr. Johnson asked the petitioner if the two homes to the west of the proposed lot, 5024 and 5030 E. 600 North, share a driveway. Mr. Linvill stated that those two homes do share a driveway.

Mr. Western stated that he is concerned with public safety of people who live in homes so far off the road. He added, and Mr. Wright concurred, that such concerns are outside of the scope of plat review by the Commission.

Mr. Wolfe stated that concerns with flooding and driveway and septic permits are reasonable, but are outside of the scope of plat review by the Commission.

Mr. Wolfe made a motion to approve 20-W-SUBD-6 with the following conditions:

1. The Health Department requirements must be met prior to approval of the secondary plat.
2. Secondary plat approval delegated to the Plan Commission staff.

Mr. Western seconded the motion.

Mr. Wright asked if there was any further discussion.

Mr. Woodmansee stated that the drainage issues raised by the public are important, but are outside of the scope of plat review by the Commission.

Hearing no further discussion, Mr. Wright called for a roll call vote. The motion was approved by a roll call vote of 6-2, with Mr. Hodges and Mr. Johnson voting nay.

Mr. Bilger asked whether any members of the public who had been in overflow seating in the Commissioner's Meeting Room remained in that room. A member of the public stated that there were no longer any people waiting in that room.

#### **4. 20-W-SUBD-7**

Mr. Bilger stated that discussion of 20-W-SUBD-7 should be delayed to first discuss 20-W-REZ-3 because the plat for 20-W-SUBD-7 is based upon the presumption that the property would be zoned GC, General Commercial, and not AG, Agricultural, as it is currently.

Mr. Wright stated that discussion 20-W-SUBD-7 would be moved after 20-W-REZ-3.

#### **5. 20-W-REZ-3**

Fred and Ann Warner requested an amendment to the Whitley County Zoning Map by reclassifying approximately 26.64 acres from AG, Agricultural District, to GC, General Commercial. The subject property, more commonly known as 7901 E. US 24-92, Roanoke, is located on the north side of E. US 24, approximately 520' west of S. 800 East, in Section 36 of Jefferson Township.

Mr. Bilger stated that this petition was originally scheduled to be heard at the Commission's April meeting, but was continued due to public health precautions related to COVID-19.

Mr. Bilger stated that the subject property is partially developed, partially wooded, and partially agricultural. He said that the petitioner currently has an outbuilding on the eastern portion of the property that is used for personal storage. He stated that mini-warehouses, and potentially outdoor vehicle and boat storage, have been proposed for the western portion of the property. He added that mini-warehouses are a special exception use in the AG district, but that outdoor storage is not allowed in the AG district as a permitted or special exception use, thus leading to the property owners' desire to have the property rezoned to GC.

Mr. Bilger presented aerial images of the property along with a review of the zoning map. He described land uses and zoning districts in the vicinity of the subject property. He discussed a rezoning requested by the petitioner of an adjacent property (10660 S. 800 East-92, Roanoke) in 2016. He added that this rezoning request was given a favorable recommendation by the Commission. He discussed a rezoning requested by a former owner of the subject property in 2015. The request, to rezone the subject property from AG to IPM (Industrial Park/Manufacturing), was withdrawn by the petitioner during the hearing prior to a vote being taken.

Mr. Bilger stated that sanitary sewer and water are not available at the subject property, but noted that the proposed use may not require access to sewer and water.

Mr. Bilger reviewed the subject property and surrounding area on the land classification map from the Comprehensive Plan. He stated that the Comprehensive Plan does contemplate that development along higher traffic streets, such as US 24, may be suitable for commercial development even if the property is not identified as such on the land classification map. He added that this played into the Commission's decision to favorably recommend the rezoning of 10660 S. 800 East-92 in 2016.

Mr. Bilger discussed the criteria the Commission must pay "reasonable regard" to when considering zoning ordinance amendments, as provided in detail in the staff report.

Mr. Wright asked the Commission if it had any questions for Mr. Bilger.

Mr. Johnson asked if access to the site would be from S. 800 East/S. West County Line Road. Mr. Bilger stated that the current proposal has a right-in/right-out access along US 24 and added that INDOT has indicated that this would potentially be acceptable, but have not given formal approval. Access from 800 East would be the only full access point for future development.

Mr. Wright asked the Commission if it had additional questions for Mr. Bilger. Hearing none, Mr. Wright asked the petitioner or their representative to address the Commission.

Fred Warner, 15309 Longview Cove, Fort Wayne, stated that he has prepared a slideshow for his presentation. Mr. Warner introduced Marlin Steury and David Frushour, potential buyers who are interested in developing mini-warehouses, to the Commission.

Mr. Warner presented aerials and photos of the property and surrounding area. He discussed the location of the property and uses in the surrounding area. He discussed the existing drainage

patterns. He described the outbuilding on the eastern half of the subject property, stating that this outbuilding is used for personal storage. He does not foresee a change in this use.

Mr. Warner stated that he and his wife purchased this property with the intent of selling off part that was not needed for the personal storage outbuilding. He said that farming the property is becoming problematic because of difficulty accessing the tillable acreage along US 24. He stated that he and his wife have considered splitting off the western half of the property for residential development, but that the lack of sanitary sewer and water and his reluctance to become a developer made this undesirable. He said that they had received many inquiries concerning the property after it was advertised for sale and that the proposal of Mr. Steury and Mr. Frushour to build a self-storage facility met their criteria of low traffic, low noise, low light, no need to connect to sanitary sewer or water, and limited activity and hours of operation.

Mr. Warner stated that the deed for the subject property has a restrictive covenant in place that requires a natural vegetation buffer zone of a minimum of 50' from the property line of Manitou Subdivision.

David Frushour, 2015 Clarmarnic Drive, Fort Wayne, described plans for developing the western portion of the property into mini-warehouses with outdoor storage for vehicles and boats. He addressed public health and safety concerns expressed in comments received from the public, including crime, well water contamination, fire protection, and drainage.

Mr. Wright asked the Commission if it had any questions for the petitioner or Mr. Frushour.

Mr. Wolfe asked Mr. Frushour what will be the height of the proposed mini-warehouses. Mr. Frushour stated that he did not know at this time.

Mr. Johnson asked Mr. Frushour if boats and vehicles will be stored inside. Mr. Frushour stated that they would be stored outdoors.

Mr. Wright asked the public if it had any questions or comments for the petitioner.

Eve Scott, 7951 E. Glacier Creek Drive-92, Roanoke, stated her opposition to the rezoning. She stated that the area is residential, not commercial, that the wooded area is not as wide as represented by Mr. Warner, that she is concerned for the safety of children, and that S. 800 East/S. West County Line Road is not safe, especially when approaching US 24 from the north. She said that she was opposed to the proposed rezoning to IPM attempted in 2015.

Bruce Scott, 7951 E. Glacier Creek Drive-92, Roanoke, stated his opposition to the rezoning. Mr. Scott stated that his house is 26' above Glacier Creek Drive, thus making the vegetative buffer not as effective as some might think, that ice makes S. 800 East/S. West County Line Road dangerous when approaching US 24 from the north, and that the area is residential not commercial.

Donald David Schmautz, 10625 S. Vinewood Road-92, Roanoke, stated his opposition to the rezoning. He said that traffic backs up along S. 800 East/S. West County Line Road and that the

grade of the roadway can cause problems. He said that a right-in/right-out access along US 24 would be dangerous. He added that he is concerned with fire protection in an area that does not have access to a water utility, but that placement of a retention pond reduces that concern. He stated that crime is associated with self-storage units, that rezoning to GC could lead eventually to placement of an undesirable use, such as an adult bookstore, that the vegetative buffer along the northern boundary of the subject property is not as effective as some claim and that one can see cars traveling along US 24, and that a commercial use such as mini-warehouses on the subject property would negatively impact surrounding property values.

Elisha Scott, 7951 E. Glacier Creek Drive-92, Roanoke, stated her opposition to the rezoning. She said that S. 800 East/S. West County Line Road north of US 24 is not safe in the winter due to ice accumulation. She stated that cars traveling along US 24 are visible from her house during the winter. She added that the presence of mini-warehouses and more people in the area would make her feel unsafe while jogging along E. Glacier Creek Drive.

Robert Aplin, 110 E. Wayne Street, Suite 402, Fort Wayne, stated that he is an attorney representing property owners on E. Glacier Creek Drive. Mr. Aplin asked the petitioner to provide more information about signage and lighting for the proposed mini-warehouses. He stated that he is concerned about the light that will be emitted from the development, and referenced a restrictive covenant in the subject property's deed that regulates lighting emitted from the subject property. He asked for more information about the ratio of square footage devoted to outdoor vehicle and boat storage compared to that devoted to enclosed, general storage. Mr. Aplin stated that, if there is no proposed change to the use of the eastern lot of the proposed subdivision, why not only rezone the western lot.

Rhonda Salge, 5465 N. 650 East, Churubusco, stated that she is in support of the rezoning.

Mr. Wright asked the public if it had additional questions or comments. Hearing none, he asked the petitioner if he would like to answer any questions or rebut any comments from the public.

Mr. Warner stated that businesses at or near the corner of S. 800 East/S. West County Line Road and US 24 existed when homes in Manitou Woods subdivision were built. He added that vehicles were traveling along US 24 were these homes were built. Mr. Warner asked why families would decide to live there if the presence of businesses and highway traffic were so repugnant.

Mr. Warner stated that the treacherous conditions of S. 800 East/S. West County Line Road as described by multiple remonstrators is not pertinent to this petition as the access to the proposed western lot would be along US 24.

Mr. Warner discussed the reasoning behind his opposition to the attempted rezoning to IPM of the subject property in 2015. He then discussed the 2016 rezoning to GC of property owned by his family at 10660 S. 800 East-92, Roanoke.

Mr. Wright closed the public hearing. He asked the Commission if it had any questions or comments regarding the petition.

Mr. Woodmansee stated that he was completely opposed to the proposed rezoning of the subject property to IPM in 2015 because of a concern with the lack of access to public utilities and the array of potential businesses that could locate in an IPM district. He added that he remains concerned by the lack of access to public utilities and the potential businesses that could locate on the subject property if it was zoned GC, but this proposal is more acceptable than that which was put forward in 2015.

Mr. Wolfe asked Mr. Warner if he intends to continue to use the existing structure on the proposed eastern lot for personal storage. Mr. Warner stated that he does intend to use this existing structure for personal storage.

Mr. Wright asked for additional discussion from the Commission. Hearing none, he called for a motion.

Mr. Johnson made a motion to send a favorable recommendation concerning 20-W-REZ-3 to the County Commissioners. Mr. Wolfe seconded the motion.

Mr. Western made a motion to amend Mr. Johnson's motion to apply only to the proposed western lot of the subject property, subject to approval of 20-W-SUBD-7. Mr. Wolfe seconded the motion.

Mr. Hodges stated that he did not understand the amendment. Mr. Wright and Mr. Western briefly discussed Mr. Western's amendment to the motion.

Mr. Bilger stated that the Commission is able to amend a motion to rezone so long as it does not increase the area that is to be rezoned, granted that the petitioner agrees to the amendment.

Mr. Wright reviewed the initial motion made by Mr. Johnson and the amendment to the motion made by Mr. Western.

Mr. Woodmansee stated that the Commission should vote first on the amendment and then it should vote on the initial motion. The amendment to the motion was approved by a roll call vote of 7-1, with Mr. Hodges voting nay.

Mr. Ladowski reminded the Commission that the petitioner has to agree to the reduction in the rezoned area.

Mr. Wright asked Mr. Warner if he was amenable to the reduction in the area to be rezoned. Mr. Warner stated that he would need his wife's input before agreeing to a reduction in the rezoned area. He added that it was recommended to him by planning staff at the beginning of the rezoning process to petition to rezone the entire rather than a portion of the property. Mr. Western stated that there is no reason to rezone the proposed eastern lot of the property at this time as the existing use, an outbuilding for personal storage, is anticipated to stay the same.

Mr. Bilger, Mr. Ladowski, and the Commission discussed what should happen as a result of the property owners not agreeing to the reduction in size of the area to be rezoned. Mr. Ladowski stated that the petition could be continued to wait until the other property owner, Ann Warner, can provide input regarding the reduction in size of the area to be rezoned. Mr. Wright asked if the vote to reduce the size of the area to be rezoned should be nullified as the property owners did not agree to the reduction. Mr. Ladowski stated that this would be an acceptable option. Mr. Wright declared the vote on Mr. Western's amendment to the motion was nullified as it was made out of order.

Mr. Bilger, Mr. Ladowski, and the Commission further discussed options for the petition. Mr. Hodges and Mr. Bilger stated that Mr. Johnson's initial motion, seconded by Mr. Wolfe, needed to be acted upon or withdrawn. Mr. Johnson stated that he did not want to withdraw his motion. Mr. Woodmansee asked for clarification of the motion being considered.

Mr. Wright called for a roll call vote on Mr. Johnson's motion, seconded by Mr. Wolfe, to send a favorable recommendation concerning 20-W-REZ-3 to the County Commissioners.

The motion was approved by a roll call vote of 6-2, with Mr. Hodges and Mr. Western voting nay.

#### **6. 20-W-SUBD-7**

Fred and Ann Warner requested primary plat approval of a 2-lot subdivision proposed to be called Warner Farms. The subject property, more commonly known as 7901 E. US 24-92, Roanoke, is located on the north side of E. US 24, approximately 520' west of S. 800 East, in Section 36 of Jefferson Township. The property is zoned AG, Agricultural District, and contains approximately 26.64 acres.

Mr. Bilger stated that this petition was originally scheduled to be heard at the Commission's April meeting, but was continued due to public health precautions related to COVID-19.

Mr. Bilger reviewed the staff report and presented the preliminary plat and aerial images of the property. He stated that soil testing was yet to be completed for the proposed western lot, Lot #2, that the plat contains a drainage easement for the natural drain that roughly bisects the property into eastern and western halves. He said that additional easements would very likely be needed for utilities and recommended that the plat, or associated covenants, include a reference to a 50' vegetation buffer along the boundary with Manitou Woods subdivision. He said that the plat included dedicated right-of-way along S. 800 East, but not along US 24 as the state of Indiana has already acquired right-of-way along that stretch of the roadway.

Mr. Bilger reviewed Planning staff's proposed conditions of approval:

1. The property must be zoned to GC, General Commercial.
2. The Health Department requirements, if any, must be met as part of Development Plan approval.
3. The building line along US 24, adequate utility and/or drainage easements, and the designated buffer area along the north property line need to be added to the plat.

4. The previous restrictions on the property should be cross-referenced on the plat, or be drafted into a new document that is appended to the plat.
5. Secondary plat approval delegated to the Plan Commission Staff. The secondary plat document is subject to Parcel Committee review.

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

Fred Warner, 15309 Longview Cove, Fort Wayne, stated that he has no objection to cross-reference on the plat of the deed restrictions that currently run with the property. He stated that the drainage easements as currently shown on the plat will be revised. Mr. Bilger and Mr. Warner discussed the need for utility and other easements on the plat. Mr. Warner said that he is not opposed to utility and other easements on the plat.

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

Donald David Schmautz, 10625 S. Vinewood Road-92, Roanoke, stated his opposition to the proposed subdivision. Mr. Schmautz stated that he was appalled that the Commission gave a favorable recommendation to a rezoning petition that benefits Allen County residents to the detriment of Whitley County residents.

Mr. Wright asked the public if it had additional questions or comments for the petitioner. Mr. Bilger stated that no electronic attendees had submitted questions or comments via electronic means. Hearing no questions or comments from the public in attendance or those attending electronically, Mr. Wright closed the public hearing.

Mr. Wright asked for a motion on the petition. Mr. Wolfe made a motion to approve 20-W-SUBD-7 with the following conditions:

1. The Health Department requirements, if any, must be met as part of Development Plan approval.
2. The building line along US 24, adequate utility and/or drainage easements, and the designated buffer area along the north property line need to be added to the plat.
3. The previous restrictions on the property should be cross-referenced on the plat, or be drafted into a new document that is appended to the plat.
4. Secondary plat approval delegated to the Plan Commission Staff. The secondary plat document is subject to Parcel Committee review.

Mr. Johnson seconded the motion. Mr. Wright called for a roll call vote. The motion was approved by a roll call vote of 7-1, with Mr. Hodges voting nay.

## **OTHER BUSINESS**

Mr. Bilger briefly discussed statute changes made by the Indiana legislature during the 2020 session that will impact the Plan Commission and the Planning and Building Department, including SEA 20 and SEA 100. In addition, he stated that he wants guidance from the Commission regarding electronic participation by members of the Commission prior to the expiration of the Executive Order that has suspended the normal rules for such participation. He reviewed the changes made under the current Executive Order and compared them to the rules that governed electronic participation pre-COVID-19.

## **ADJOURNMENT**

Mr. Wright declared the meeting adjourned at approximately 10:39 P.M.