

**MINUTES**  
**WHITLEY COUNTY PLAN COMMISSION**  
**REGULAR MEETING**

**December 21, 2022**

**7:00 p. m.**

**Whitley County Government Center**  
**Lower Level, Meeting Room A/B**

<b>MEMBERS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>STAFF</b>
Dane Drew	X(Electronic)		Nathan Bilger
Brent Emerick	X		Brent Bockelman
Jack Green	X		
Thor Hodges	X		<b>LEGAL COUNSEL</b>
Mark Johnson	X		Elizabeth Deckard
Kim Kurtz-Seslar	X		
George Schrupf		X	<b>NONVOTING ADVISOR</b>
Joe Wolf	X		John Woodmansee
Doug Wright	X		

**AUDIENCE MEMBERS**

The audience list of in-person and electronic guests is attached below.

**CALL TO ORDER/ROLL CALL**

Mr. Hodges called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Mr. Bockelman read the roll call with members present and absent listed above.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

The minutes for the November 16, 2022, regular meeting were presented for consideration. Mr. Hodges called for any comments or a motion. Mr. Drew made a motion to approve the minutes as presented; seconded by Mr. Emerick. Motion passed, 8-0 by roll call vote.

**ADMINISTRATION OF OATH**

Ms. Deckard administered the oath to audience members wishing to speak.

**OLD BUSINESS**

**22-W-REZ-6 (continued from November meeting)**

Columbia City Plan Commission is requesting a zone map amendment to expand and adjust the Columbia City Plan Commission's extraterritorial jurisdiction (ETJ). The total area of the proposed expansion is 6,100 acres.

Mr. Bilger presented the staff report. He explained that this was a request to expand the Extraterritorial Jurisdiction of the Columbia City Plan Commission. He explained that the main objective was to encourage development that is aligned with the municipal goal. A map was displayed to show the current, proposed, and potential ETJ. Mr. Bilger also provided charts to

show comparisons in development standards, permitted uses, and special exception uses of the two agriculture zones.

Mr. Bilger explained that this petition would be a request to amend the zoning map, not actually rezone a property. With this being a larger area, the same review criteria still apply.

Mr. Hodges opened the floor for the public hearing.

Larry Weiss, 1609 W. Westgate Avenue, addressed the Commission as the representative of the Columbia City Plan Commission. He explained that the ETJ had not been changed since the 1970's. He discussed the request to expand the ETJ in anticipation of future urban growth. He added that the City Plan Commission does include two representative members for the ETJ.

Dennis Warnick, 113 N. Oak Street, addressed the Commission. He stated that this would be to benefit future growth.

Ryan Daniel, 517 North Shore Ct, Mayor of Columbia City, addressed the Commission. He thanked the Commission for their time and stated that the ETJ extension would not be annexation and involuntary annexation has not been done since the 1990's. Mayor Daniel discussed the boundaries and the thought that had gone into the decision of areas included. He clarified that this amendment would not change taxes on the properties included. Discussion was made regarding areas of growth. He again thanked the Commission asked for any questions for him.

Mr. Wolfe shared his concern about children walking to the school during early morning hours with no safe way to get there. Mayor Daniel confirmed that concern and stated that the City had received a grant to extend the trail to the school. He explained where the proposed trail would be placed, and that engineering is in the design process with construction to be done in 2024.

Mr. Emerick stated his concern with the fact that property owners involved did not receive notification of the changes. He asked how he would feel if major jurisdictional change was made including his property without him having knowledge of it. Mayor Daniel stated that he was not part of that decision and deferred the answer to Mr. Bilger. However, he stated that the vast majority of residents in the ETJ will experience no change. Explaining that the only time a change would be noticed would be in the instance of a petition being filed and heard by the city boards and commissions instead of county. He then Mr. Bilger to clarify the question on notices. Mr. Bilger explained that legal counsel for the County and City were consulted on the proper way notice should be given. Ms. Deckard confirmed that she and the city's attorney agreed that the requirements were met for the statute. Mr. Emerick expressed his thought that the notice given might have legally covered base, but ethically, it leaves a lot to be desired. Mr. Johnson stated that he did not believe that anything was done to pull wool over anybody's eyes. However, he agreed that this kind of change, including so many properties, should include more notice than just information in the newspaper. Mayor Daniel stated the he understood the concern and reaffirmed that there was no intent to hide anything

Hearing no further comment. Mr. Hodges closed the public hearing.

Mr. Emerick asked if Mr. Drew was joining online and asked if he had any input. Mr. Drew stated that he did not believe that there was a need to extend the area as far as it is proposed. Some of his farm property is already in the ETJ and does not see the necessity to expand to the west. He shared his concern with the effects on the agricultural properties in all directions. Mr. Weiss asked for clarification on the area he was concerned about. He stated that areas of concern

could be discussed and changed if needed. Mr. Weiss also discussed the notification concern. He stated that if the Commission felt that individual notice should be sent to the property owners, they would welcome that. Mr. Johnson shared his favor with individual notice. Discussion was made regarding the time frame of continuance. Mr. Johnson made a motion to table the petition until the January meeting to allow for individual mailed notice to be sent to all property owners in the proposed area. Seconded by Mr. Wolfe. Further discussion was made about this setting a precedence for notification in the future. The motion was approved by roll call vote with a vote of 7-0.

## **NEW BUSINESS**

### **22-W-SUBD-14 BISHOP RIDGE ADDITION**

Meredith and James Bishop are requesting preliminary plat approval of a 5-lot subdivision to be known as “Bishop Ridge Addition.” The property is located on the south side of Morsches Road, at the intersection with State Road 109, in Section 4 of Thorncreek Township.

Mr. Bilger presented the staff report. He described the property included and stated that the zoning was Rural Residential. The plat was displayed along with aerial views of the project. Proposed covenants were discussed and proposed conditions were displayed. The comments of the County Engineer were mentioned and reflected in the proposed conditions.

Kevin Michel and Ryan Peppler of Walker and Associates, 112 W. Van Buran, addressed the Commission as representatives of the Bishop’s. Explanation was given regarding the location of the driveways of the individual parcels and the possibility of two of the lots being under the same ownership. Mr. Wolfe shared his concerns with the locations of the individual driveways instead of drives accessed off of a new street inside the subdivision.

Mr. Hodges opened the floor for the public hearing.

Avery Lehman, 26 Wintergreen Way, Ocala, Florida, addressed the Commission. He stated his support for the petition. As owner of the adjacent property to the north, he was in favor of the subdivision to see it as a maintained property.

John Meister, 5995 S. Woodstrail-57, stated his full support for the approval of the petition.

Roger Dinkle, 275 E. Morsches Road, Shared his concerns with drainage from the golf course property. He stated that the Crooked Lake Association has spent a lot of time, effort, and money in controlling the drainage in the area. He would like to make sure future drainage issues are controlled and maintained.

John Meister, 5995 S. Woodstrail-57, stated that he had met the previous week to address the concerns and possible solution for the drainage issues discussed by Mr. Dinkle. He apologized for not communicating that information to him.

Mr. Johnson made a motion to approve 22-W-SUBD-14 with Staff recommended conditions. Seconded by Mr. Emerick. Motion passed by roll call vote of 7-0.

### **22-W-SUBD-15 CALM ACRES**

James & Janet Richter are requesting preliminary plat approval of a 2-lot subdivision to be known as “Calm Acres.” The property is located on the east side of 600 East, 900 feet south of 1000 South, in Section 25 of Jefferson Township.

Mr. Bilger presented the staff report. He described the property involved and discussed the standards of area, lots, and dedicated right-of-way. Aerial views were displayed of the property, including an overlay of the plat. Proposed conditions were reviewed and explained. Drainage and health department requirements were discussed.

Kevin Michel and Ryan Peppler of Walker and Associates, 112 W. Van Buran, addressed the Commission as representatives of the Richter's. He explained the project and explained that the final plat may include a small change for access.

Mr. Hodges opened the floor for public hearing. Hearing none, he closed the public hearing.

Ms. Kurtz-Seslar made a motion to approve 22-W-SUBD-15 with staff recommended conditions. Seconded by Mr. Johnson. The motion passed by roll call vote of 7-0.

### **22-W-SUBD-16 EEL CREEK**

Schwartz Enterprises, LLC is requesting preliminary plat approval of a 2-lot subdivision to be known as "Eel Creek." The property is located on the east side of State Road 9, 1/2 mile south of 200 South, in Section 23 of Columbia Township.

Mr. Bilger presented the staff report. He described the property involved and discussed the standards of area, lots, and dedicated right-of-way. He stated that if the ETJ were to be approved, this property would be included. It was stated that the revised plat acreage had changed from the original proposal. Aerial views were displayed of the property, including an overlay of the plat with flood plain shown. Proposed conditions were reviewed and explained.

Kevin Michel and Ryan Peppler of Walker and Associates, 112 W. Van Buran, addressed the Commission as representatives of the petitioners. Mr. Michel described the use of the existing drive for both lots involved. He explained the change in the plat was to allow for access to the river by both lots.

Mr. Hodges opened the floor for public hearing. Hearing none, he closed the public hearing.

Mr. Green made a motion to approve 22-W-SUBD-16 with staff recommended conditions. Seconded by Mr. Emerick. Motion passed by roll call vote 7-0.

### **22-W-REZ-7**

Chris Santor, of Rail City Enterprises, is requesting an amendment to the Whitley County Zoning Map to reclassify the 3.37± acre real estate described from the AG, Agricultural District, to the VC, Village Commercial District. The property is located on the north side of 200 South, 1200 feet west of 425 West, in Section 13 of Richland Township.

Mr. Bilger presented the staff report. Location and details of the property were described. He explained that the property was previously used as Oak Grove United Methodist Church. A description of the proposed uses of auction company, staging and pickup of online auctions, retail boutique specializing in antiques, collectibles, etc., and outdoor farmers market were stated. The possible future use as a reception hall/ banquet hall was also discussed. The explanation that most of the uses could be permitted by special exception, however, the possible future use would require the rezoning of the property. The surrounding property uses were given and aerial views were displayed and included the surrounding zoning districts. The Comprehensive plan was discussed as reference.

Chris Santor, 7317 Rob Roy Road, Fort Wayne addressed the Commission. He described his intent and welcomed any questions. Mr. Johnson asked about the reception hall aspect on the property in the AG district. Mr. Santor stated that his intent was to have a multi-purpose facility. The banquet hall was more of a technical description for a gathering for live auction use. Discussion was made about details of the terminology use. Mr. Wolfe discussed the use for parking for the visitors of the cemetery across the road. Mr. Santor stated that he would have no concerns. Mr. Wolfe also asked about the county parking mowing equipment there on occasion. Mr. Santor stated that would not be an issue as long as communication was made, and the drive was not blocked. Mr. Hodges stated that agreeing to that would not have any bearing on the approval of the petition.

Robert Thompson, 2201 S. Whitley Road, asked what the capacity of the building was. He shared his concern with the amount of traffic in the area. He stated his opposition to the rezoning.

Jenny Markins, 4663 W. 200 South, stated that she did not get personal notification even though her property was near. She stated her concern with the traffic increase with her having young children. She stated that she had moved to the country to get away from traffic. She stated her opposition to rezoning the property to commercial.

Emily Studebaker, 5147 W. 200 South, stated that she has a livestock operation on their property and if the property in question were rezoned, that could put restrictions of what they could do on their property. She also stated that she believed that rezoning this property would be in opposition to the comprehensive plan. She stated that she had no issue with the uses that were proposed, only the rezoning of the property.

Mr. Emerick discussed the encouragement of new businesses to the area; however, this rezoning did not fit in the agriculture area.

Mr. Wright stated that he was not in favor of rezoning.

Mr. Wright made a motion to send an unfavorable recommendation to the Commissioners. Mr. Wolf seconded the motion. Ms. Kurtz-Seslar agreed stating that she felt this would be similar to spot zoning. Hearing no further discussion, Mr. Hodges asked for a vote. The motion was passed by a 7-0 Vote.

## **22-W-REZ-8**

Avery Lehman, of Lehman Real Estate Holdings, is requesting an amendment to the Whitley County Zoning Map to reclassify the .93± acre real estate described from RR, Rural Residential District to VC, Village Commercial District. The property is located on the north side of Morsches Road, 225 feet east of State Road 109 in Section 4 of Thorncreek Township.

Mr. Bilger presented the staff report. He reviewed the summary of the petition including the property, zoning of surrounding areas, and nature of the proposed use. Aerial views were given with reference to the zoning and land use maps. Character description with intent and guidelines were displayed and discussed as well. The permitted and special exception uses of the zoning were displayed. The staff recommended conditions were reviewed.

Avery Lehman, 26 Wintergreen Way, Ocala Florida, owner of the property, addressed the Commission. He described the proposed use of the property and nature of business being an online sales business of garage door building materials. He stated that the traffic along with the

use would be minimal. A few trucks a week would be visiting the property for deliveries. No retail would be operating out of the proposed building, only storage of material. The property values of adjacent properties was discussed, including the values of properties near by if nothing was done with the property. He stated that his company was the only bidder at the time of the sale. If the concern with possible use of the property were so great, why were no other interested parties willing to purchase the property. Mr. Lehman explained that many of the permitted and special exception uses, they would agree, would not fit in this area and they would be willing to submit commitments that would restrict those uses to allowed. Meetings with the Lake Association were discussed in attempt to address concerns.

Mr. Wolf asked for clarification to the amount of traffic and truck traffic to the business.

Mr. Lehman discussed the possibility of, and willingness to, connect to the sewer.

Mr. Hodges opened the public hearing.

John Meister, 5995 S. Woodstrail Dr.-57, stated that his property is in the notice area and also represents the Crooked Lake Association as President. He discussed the meeting with the Lehmans. He discussed the possible uses of the property if it were to be rezoned. He shared his concern with intensity and nature of some of the permitted and special exception uses stating that many were not in character with the long standing residential area. At the first meeting he and other association members had with the Lehmans, discussion was made regarding limiting the use and scale with zoning commitments and conditions. Hoping to come in agreement before the hearing. After the second meeting, no agreement was reached. He discussed his concern with commercial zoning in this area and the impact it would have in the future. He discussed the Comprehensive Plan and how he believed that rezoning of this property would not be in line with the plan. He expanded that the character-based code describes the overall intent of the area to determine future development and that this proposal is not a fit. Discussion was made about the Lehman's business having other possibilities to expand and would not be providing for local needs. Mr. Meister stated that this rezoning situation would set precedence in future cases and could be detrimental to the area. He stated that if the decision were to recommend the rezoning, he asked that serious commitments and conditions be put in place to limit the less compatible uses. As an individual and the Lake Association, he stated the willingness to meet with the Lehmans again to come to an agreement and details on uses. Mr. Meister asked the Commission to consider turning down the rezoning request. Mr. Bilger made clarification on terminology of used in the 2011 Comprehensive Plan translating to the current plan. Mr. Hodges also clarified that the decision of the Plan Commission would not approve or deny the petition. It would be a favorable, unfavorable, or no recommendation to the Commissioners.

Jay Hilgenberg, 365 E. Morsches Road, shared his concern with an adjacent property and the effect that rezoning would have on the property value and marketability. He stated his position that commercial uses do not fit in the residential area.

Sally Gilbert, 485 E. Morsches Road, Addressed the Commission. She expressed her concern and referred to the letter that she had sent to the Commission. Discussion was made about the narrow roadway. She stated that they do not want to drive by commercial property every day. The commercial building size was discussed along with the traffic generated with the business including deliveries. The situation of having large vehicles blocking the roadway if a medical emergency were to occur was mentioned. She stated that many property owners and families have been in the area for many years and possibly pass the land down to the next generation. She

discussed that the future of the area could be changed by allowing for the rezoning. She would welcome the possibility of downsizing the operation and be able to keep residential zoning. Her hope was to come to an agreement with the Lehmans through their meeting and that did not happen. Ms. Gilbert shared her concern with making sure property value and emergency response were protected. She stated her opposition to the rezoning of the property.

Tom Lehman, 366 E. 600 North, wanted to address some of the concerns. He stated that the concerns regarding the building itself was not a factor. The building size and location would be allowed on the property without the rezoning of the property. He stated that the intent was to have the building as far off of the road as possible. He discussed the continuation of the quietness of the area with the intensity of the proposal. The condition of the property was discussed. That the structures were in poor condition, and they have already been working to clean up the property. He stated that if they did nothing with the property, it would continue to be a vacant building that would continue to decline. Discussion was made that the Lehmans are willing to work together with the Plan Commission and open to compromise with reasonable commitments and conditions. During the meetings with the Crooked Lake Association, he felt as if they wanted to control every aspect of what was occurring on the property including the size, color, location, and design of the building, as well as landscaping and the list of demands kept getting longer. He stated he felt that it would be the Lehmans providing the money for funding, and the people opposed getting what they want. He stated that if there was this much concern about what this land would be used for, why did the association show interest in putting up the money and purchasing it themselves. Mr. Lehman discussed that if the property could not be used to produce income for them, it would be difficult for them to invest money in making the positive improvement in the location.

William Fisher, 6920 N. Valley Ave, stated that he was the closest property to the club house. He also stated that he knew of another party had bid on the property. He discussed the importance of that entrance at State Road 109 to access the lake properties and that this was not the place to have that size of a Building. Discussion was made that if the zoning was changed, future development would be a concern.

Wade Hale, 410 E. Morsches Road, addressed the Commission. He explained that he lived toward the end of Morsches Road. As a business owner, he discussed his familiarity with semi traffic and that Morsches Road was not practical for that. Though he supports business and the American dream, he shared his concern with future growth of the proposed business and the potential to become a major issue in the area. As a father of children that drive in this area, he shared his safety concern. Mr. Hale stated his opposition to the rezoning.

Avery Lehman, 26 Wintergreen Way, Ocala, FL, stated that a house being build in the area had no less than eight or ten concrete trucks delivering to the site and had no issues accessing the property. He stated that the trucks delivering to their location would not be larger than those. Discussion was made regarding expansion in the future and, as lifelong community members, overuse of the property would not be an issue. If expansion was needed, a new location would be found. He also discussed that if they had to sell the property, with the current zoning, new owners could do far worse things on the property than they are proposing, such as junk car storage.

Darlene Nelson, 493 E. Morsches Road, shared her concerns with the added traffic generation. She stated that the narrow road already has issues with the delivery vans that deliver in the area.

She stated that she opposed the rezoning and feared the effect it would have on the property values in the area. She also shared concern with the negative effects it might have on the Bishop's new residential subdivision across the road.

Jay Hilgenberg, 365 E. Morsches Road, provided photos of the area to show what type of area they were trying to protect from commercial properties. Mr. Hodges asked how construction of a pole building would effect the safety of the lake. Mr. Hilgenberg stated that it would by property values. Mr. Hodges then asked how property values protect the lake. Mr. Hilgenberg then stated by putting a commercial building and opening to possibility of more commercial. With more commercial and more roads, possible drainage and contamination might reach the lake.

Tom and Avery Lehman addressed the Commission. Discussion was made to the fact that the existing structure on the property is not able to be seen from any of the houses on Morsches Road. The complaint is that people don't want to have to drive by the property. Tom stated that the opposition is wanting to control what can and can't be done. Mr. Johnson asked about the size of the existing structure on the property. An estimate of 30' X 50' was given.

John Meister addressed the board with discussion about uses of the zoning district that were possible in the future. He asked that if the request were to move forward, that restrictions and commitments be put in place to reduce the intensity of possible future operations.

Mr. Hodges limited any further discussions be held to two minutes. Hearing no further comment, Mr. Bilger provided the questions and comments provided online.

William Hartman, 341 E. Morsches Road, participating electronically, asked that if the size of the building doesn't matter, why does he need rezoning? Is his bad investment justification to rezone from RR to VC? Limited parking means less room to turn around trucks.

Mr. Hodges closed the public hearing.

Discussion was made among the members regarding the proposal. The terminology of mini-warehouse and warehouse were discussed. Clarification of the online sales and shipping was made explained that customers would not be visiting the location. Discussion was made regarding how the proposed request fit with the Comprehensive Plan. Options were discussed to allow for operation of the business without rezoning the property.

Mr. Emerick made a motion to send a favorable recommendation for 23-W-REZ-8 to the Commissioners. Seconded by Mr. Wolf. Mr. Johnson asked if the recommendation would include all used in the zoning district. Mr. Hodges confirmed that it would. Mr. Johnson discussed a different rezone with special exception to allow for the operation without commercial zoning. Further discussion was made about ways to limit permitted uses. The motion was denied by roll call vote of 2-5, with Mr. Emerick and Mr. Wolf voting in favor.

Mr. Johnson made a motion to table 23-W-REZ-8 to allow for time to consider options. Seconded by Mr. Green. Motion passed by roll call vote of 7-0.

## **22-W-REZ-9**

Aaron, Kanoshia, and Allen D. Schwartz are requesting an amendment to the Whitley County Zoning Map to reclassify the south 10 acres of the described 33.2± acre real estate described from AG, Agriculture District to IN, Intensive Use District. The property is located on the north side of 1000 South, .78 miles west of State Road 105 in Section 28 of Cleveland Township.



Mr. Bilger presented the staff report. He explained the nature of the request being the addition of slaughter house use to an existing meat processing butcher shop that is currently operating on the property. Aerial views were displayed pointing out location of the property and location of the new structure being added for the use. Staff recommended conditions were displayed and explained. Including the conditions that were in place with the previously approved special exception, 20-W-SE-7

Greg Hockemeyer, 116 N. Chauncey St., addressed the Commission and explained the proposed request. He stated that the area of ten acres was being reduced to approximately 2.5 acres being rezoned. He explained the additional zoning commitments proposed to limit the intensity of uses that would be permitted in the new zoning district. Details were given to address the concerns that had been voiced regarding the project.

Alayne Johnson, 6906 E. 150 North, addressed the Commission with full support of the rezoning.

Mr. Johnson made a motion to make a favorable recommendation to the Commissioners for 23-W-REZ-9. Mr. Emerick seconded. The motion passed by roll call vote with a vote of 7-0.

### **OTHER BUSINESS**

Mr. Hodges turned the floor over to Doug Wright.

Mr. Wright addressed the other members of the Commission and stated that after 16 ½ years of serving on the Plan Commission, he is resigning, and this would be his last meeting. The members thanked him for his service and wished him well.

### **ADJOURNMENT**

Having no further business, Mr. Hodges adjourned the meeting at 10:25 P. M.

### **GUEST LIST**

1. Dennis Warnick .....113 N. Oak Street
2. Larry F. Weiss.....1609 W. Westgate Ave.
3. Avery Lehman .....26 Wintergreen Way, Ocala, FL
4. Nick Lehman.....366 E. 600 North
5. Tom Lehman.....366 E. 600 North
6. Ryan Peppler.....3490 N. Etna Road
7. Sally Gilbert.....485 E. Morsches Road
8. David Gilbert .....485 E. Morsches Road
9. Darlene Nelson.....493 E Morsches Road
10. Robert Thompson.....2201 S. Whitley Road
11. Shari Thompson .....2201 S. Whitley Road
12. Kevin Michel .....4242 S. 700 East
13. David Rupley .....10630 S. State Road 5
14. Christopher Santor .....7317 Rob Roy Road, Fort Wayne
15. Alayne Johnson.....6906 E. 150 North
16. Steve Parker .....1884 S. 425 West
17. Ryan Daniel .....517 N. Shore Ct.

18. Sonya Emerick .....5865 E. State Road 14  
19. Danny Wilkinson .....5637 W. 280 South  
20. John Meister .....5995 S. Woodstrail-57  
21. Wade Hale .....410 E. Morsches Road  
22. William R. Fisher .....6920 N. Valley Ave.  
23. Jenny Markins .....4663 W. 200 South  
24. Greg Hockemeyer .....116 N. Chauncey St.  
25. Allen Schwartz .....7780 W. 1000 South  
26. Aaron Schwartz .....7125 W. 1000 South  
27. Emily Studebaker .....5147 W. 200 South  
28. Jay Hilgenberg .....365 E. Morsches Road  
29. Roger Dinkel .....275 E Morsches Road

**GUEST LIST-ELECTRONIC**

William Hartman .....341 E. Morsches Road