

MINUTES
WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING

May 17, 2023

7:00 p.m.

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

MEMBERS	PRESENT	ABSENT	STAFF
Travis Baker	X		Nathan Bilger
Dane Drew	X		Brent Bockelman
Brent Emerick	X		
Jack Green	X		LEGAL COUNSEL
Thor Hodges	X		Elizabeth Deckard
Mark Johnson	X		
Rob Schuman	X		NONVOTING ADVISOR
Kim Kurtz-Seslar	X		John Woodmansee
Joe Wolf	X		

AUDIENCE MEMBERS

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

CALL TO ORDER/ROLL CALL

Mr. Johnson 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 April 19, 2023, workshop and regular meeting were presented for consideration. Mr. Johnson called for any comments or a motion. Mr. Green made a motion to approve the minutes as presented. Seconded by Mr. Drew. Motion passed, 9-0 by roll call vote.

ADMINISTRATION OF OATH

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

NEW BUSINESS

Mr. Johnson stated that the order of business would be changed from that on the agenda, and the Commission would hear the petition for 23-W-SUBD-5 listed under new business first.

23-W-SUBD-5, Trenton Rowland

Trenton Rowland requested preliminary approval of a 1-lot subdivision plat proposed to be known as "Tipple Acres." The property was located on the west side of 950 West, 1,100' north of 1000 South in Section 30 of Cleveland Township.

Mr. Bilger presented the staff report. He provided aerial views and plat overlay for reference. Drainage of the area was discussed. Discussion was made about the conditions and restrictions

on the location of the driveway for the property. He presented the following as recommended conditions of approval:

1. Health Department requirements be met.
2. A notation be added to the plat that driveways would be permitted only in the northernmost 150' frontage of Lot 1.
3. Secondary plat approval delegated to the Plan Commission Staff.

Trent Rowland, 8160 S. 950 West, addressed the Commission and explained the project. The reason for the subdivision would be to allow for his in-laws to build their retirement home in the next year or two.

Mr. Johnson opened the public hearing. Hearing nothing, the public hearing was closed. He then called for further discussion or a motion.

Mr. Hodges made a motion to approve 23-W-SUBD-5 with staff recommended conditions. Mr. Drew seconded the motion. The motion was approved, 9-0 by roll call vote.

OLD BUSINESS

22-W-REZ-6

Mr. Bilger updated the Commission of the status of the proposed Extraterritorial Jurisdiction expansion, which had been continued since initially being presented at the end of 2022. He stated that the Columbia City Plan Commission would like to request a joint workshop, possibly following the regular County Plan Commission meeting in June, to address concerns and adjust their proposal accordingly. The Commission agreed that a workshop could be useful, and Mr. Bilger stated that staff would work out the details and schedule.

22-W-REZ-8

Avery Lehman, of Lehman Real Estate Holdings, requested 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 was located on the north side of Morsches Road, 225 feet east of State Road 109 in Section 4 of Thorncreek Township.

Mr. Bilger stated that this petition was first heard in December of 2022 and was tabled pending additional work by the petitioner to clarify commitments and options to propose at a later meeting. He said that the Petitioners worked with the Crooked Lake Association to come up with a proposal that was agreed upon by both parties.

Mr. Bilger presented a revised staff report. He discussed the proposed use of the property and the structure under construction. Aerial views were displayed to show surrounding properties as well as the zoning in the area. The Comprehensive Plan Future Character and Land Use Map for the area was displayed for reference, and the character descriptions were reviewed.

Mr. Bilger displayed a list of permitted uses in the VC district. This display indicated the uses that would not be permitted on this property by use of zoning commitments agreed upon by the petitioner and the Crooked Lake Association. Special Exception uses were restricted to mini-storage facility and warehouse only. Additional submitted commitments were reviewed and included the following:

1. Seek special exception for warehouse/mini-storage facility
2. No manufacturing to be permitted on the property.
3. Parcel will be landscaped.
4. No outside storage of materials or waste. Dumpster or trash cans to be screened. Dumpster limited to 8 yards.
5. No affixed signed. Freestanding signage in conformance with the sign code.
6. Delivery trucks to be 42' or shorter and offloaded in timely manner to avoid impeding traffic. Trucks to go/from 109 only.
7. Modified RR development standards to apply to future additions and new buildings.
 1. Proposed modified RR development standards.
 1. Front setback: 30'
 2. Side setback: 10'
 3. Rear setback: 20'
 4. Height: 50'
 5. Lot coverage: 40%
8. Petitioner to consult with Crooked Lake Association on any new additions or buildings or uses.
9. Crooked Lake Association to hold first right of refusal if parcel is for sale.
10. Commitments to be recorded.

Mr. Bilger discussed his concerns about commitments numbered 8 and 9, which he felt could be outside the authority of the Commission to enforce.

Mr. Johnson asked the petitioner to speak on the proposal. Avery Lehman, 65 E. Morsches Road, addressed the Commission. He explained the proposed uses of the property. He also provided details on the type of deliveries and frequency of deliveries that were expected to occur at the property.

Having no questions for the petitioner, Mr. Johnson opened the public hearing.

John Meister, 5995 S. Woodstrail Drive-57, addressed the Commission. He introduced Dr. Meredith Bishop as the owner of the property across the road from the subject property. He then provided a history of the petition that was originally heard the previous year. He discussed the permitted uses that are included in the VC district. Explanation was given on how agreement between Crooked Lake property owners and the Lehmans took place regarding the permitted uses, special exception uses, and the proposed commitments. He stated that he jointly stands with the petitioner, subject to the Commission's favorable recommendation to the Commissioners. Mr. Meister continued to discuss the Comprehensive Plan update and community character approach. He stated that the two parties have come to an agreement and asked the Plan Commission for a positive recommendation to endorse the Lehmans' petition to the County Commissioners. He finished by thanking the Plan Commission members for their service to Whitley County.

Hearing no additional comments, the public hearing was closed. Mr. Johnson asked for further discussion or a motion.

Mr. Drew made a motion to pass forward 22-W-REZ-8 with a favorable recommendation. Mr. Green seconded the motion. Mr. Drew clarified that this motion included the proposed commitments. Mr. Emerick asked if the commitments noted in the staff report as being unenforceable should be included. Mr. Drew amended his motion to remove commitments numbered 8 and 9 from the commitments included. Mr. Green seconded the amended motion. The motion passed, 9-0 by roll call vote.

NEW BUSINESS

23-W-ZOA-3 Proposed amendments of §5.23, Solar Energy Collection Systems

Mr. Bilger presented the following summary of the proposed amendments to Section 5.23:

The definition of nonparticipating property was added. Mr. Bilger stated that the proposed wording still needed editing to be clear.

Amend SECS-3 to make Development Plan a public hearing, an Environment Impact Statement (Mr. Bilger recommended revising this to “Environmental Assessment”) be required, and costs of outside review the responsibility of the applicant.

Amend SECS-4 to revise the “doughnut” regulation, and to establish a density maximum of 18 dwellings per square mile in and within ¼ mile of a solar overlay district.

Amend SECS-6 to revise minimum setbacks to match the IN district standards of 150’/50’/50’; to rearrange the text so the buffering subsection would follow the setbacks; to add the minimum buffer distance of 1,500 feet from any nonparticipating property line, which could be waived; to revise the minimum distance of noise generating equipment from nonparticipating residential property to 900 feet and 300 feet from any other nonparticipating property.

Mr. Bilger then displayed a map of an area of Washington Township showing how the buffers and setbacks could be applied in a hypothetical, but realistic, situation. This included an overlay area of 1107 acres in gross area, which resulted in about 165 net acres when excluding the buffer areas. The dwelling density of this area was 10.47 units/sq mile, with 36 units in the 3.44 sq. mi. area.

Mr. Bilger continued with other amendments to the development standards of SECS-6 including a reduced height, how agrivoltaics modify buffer requirements except the minimum distance, emergency response plan reviewers, timeline for damaged component repair and removal, reporting and repair time limits for damage to drainage infrastructure, bonds, and maximum noise level attributable to the facility reduced to 40dB.

He also recommended that the Commission discuss making a recommendation on the status of the moratorium that was adopted in March.

Having no questions for staff, Mr. Johnson opened the public hearing.

Doug Hosler, 3700 E. 300 South, addressed the Commission and stated his concern with ending the moratorium early. He asked for clarification as to if the 1,500’ set back would still be in place

if a road were between the overlay district and a nonparticipating property. Mr. Bilger stated that the 1,500' setback would still be in place to any nonparticipating property line.

Joan Null, 8099 S. 200 East, addressed the Commission and asked for clarification on the 1,500' buffer and the 900' and 300' setbacks for noise generating equipment. Mr. Bilger explained that the 1,500' buffer was able to be waived by nonparticipating property owners, while the 900' and 300' setback for noise generating equipment was not able to be waived. She also discussed the damage reporting timeframe on drainage and questioned the practicality of this. She also stated her concern with the noise generation being measured as an hourly average. Mr. Bilger explained how this could be checked and measured.

Hearing no further comments, Mr. Johnson closed the public hearing and asked for Commission discussion.

Mr. Woodmansee discussed the terminology included in the description of trees to be used as buffers. He suggested changing the wording from canopy trees to deciduous trees with a mature height of 20 feet or more. He also suggested clarification in language on requirements for replacing dead, damaged, or diseased trees. Mr. Bilger commented that those standards were identical to the industrial district buffer standards, so it may be good to review those together.

Mr. Wolfe discussed his views on future projects and not restricting the local utilities in providing efficient, low cost, power to our communities.

Mr. Johnson commented that the Commissioners have stated that they wanted to have a 1,500' setback in the zoning amendment, and that he appreciated having a balanced code in place, with positives and negatives from both sides, to be prepared for when, and if, things change and solar becomes a better thing for the County and landowners.

Ms. Kurtz-Seslar asked if a property owner that signed a waiver for the 1,500' setback would be considered a participating property and how that would affect the dwelling density calculation. Mr. Bilger stated that they would still be defined as a nonparticipating property, but one with a waiver. He stated that the dwelling density calculation would not be affected by waivers. Both aspects would be reviewed during the Development Plan process.

Mr. Schuman stated that, as the Commissioner's representative on the Plan Commission, the Board of Commissioners was in full agreement with the code amendments, and that, at its core, Whitley County is a farming community. He expressed the Commissioners' support of the wide variety of agriculture in the county. He discussed the issue of property owner rights and the decisions that go along with addressing those concerns. He also stated that, with solar technology changing rapidly and possible benefits that solar may bring to the county in time, additional changes may need to be made to the ordinance in the future if they are in the best interest of the community.

Mr. Hodges stated that, with the Commissioners working to make the code changes and being in agreement with the amendments, the Plan Commission's position should be clear. He then made a motion to forward 23-W-ZOA-3 to the Commissioners with no recommendation. Ms. Kurtz-Seslar seconded the motion. Discussion was made regarding the inclusion of the additional text edits to the definition of nonparticipating property owner and change to "environmental assessment" that staff had noted. Mr. Hodges amended his motion to include those text changes. Ms. Kurtz-Seslar seconded the amended motion. Mr. Johnson called for a roll call vote. The motion passed by a vote of 8-0-1 with Mr. Wolf abstaining due to concerns with local utilities.

OTHER BUSINESS

Rules of Procedure

Mr. Bilger discussed the Rules of Procedure and the possibility of including miscellaneous amendments in the same amendment ordinance. He discussed changing the maximum number of lots before rezoning is required, electronic signs added to the sign code, and single-family residence to the PR district as a special exception. Mr. Bilger asked for additional thoughts or ideas, regarding rules of procedure and additional code changes, in the next few weeks as he prepares the documents for review at an upcoming meeting.

ADJOURNMENT

Having no further business, Mr. Johnson adjourned the meeting at 8:20 p.m.

GUEST LIST

Avery Lehman65 E. Morsches Road
Thomas Lehman.....366 E. 600 North
Chris Crowell.....3070 S. Raber Road
Dale Bolante.....3701 S. Washington Road
Meredith Bishop.....E. Morsches Road
John Meister.....5995 S. Woodstrail Dr.-57
Debra Hosler3700 E. 300 South
Doug Hosler.....3700 E. 300 South
Bruce Van De Zande.....1821 E. Widman Road
Trent Rowland8160 S 950 West
Joe Hildenberg365 E. Morsches Road
Mary Ann Anderson411 E. Morsches Road
Susan Laurence275 N. 800 East, Avilla
Ginny Rowland3606 S. Meridian Road
Joan Null8099 S. 200 East
Larry Long4835 W. 800 South
Jason Dafforn3134 E. Mowrey Road
Sonya Emerick5965 E. State Road 14
Debbie Gay1980 E. Robbin Hood Road
Sharon Simmons2065 S. Raber Road
Donna Hearld.....1959 E. Robin Hood Road
Diana du Pont.....1676 S. 700 East
Connie Forrester.....614 W. Columbia Pkwy
Trudy Lippy3420 W. Hill Drive

GUEST LIST-ELECTRONIC

1. Robert Kehmeyer6411 S. 600 East
2. Kurt Kehmeyer.....8244 S. 600 East
3. Judy Kehmeyer8375 S. 600 East
4. Emily Studebaker.....5147 W. 200 South