January 23, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

Secretary, Craig Cultice, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, January 23, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Craig Cultice, Larry Houin, Deborah Johnson, Stan Klotz, Michelle Mieras, and Don Nunemaker. Plan Director Lydia Dutton, Lori Lowry Administrative Assistant, Fred Webster, City of Plymouth Liaison, and Derek Jones the Marshall County Plan Commission attorney were present along with interested parties. Members absent were Mrs. Barnhart and Ms. Slonaker.

Ms. Mieras made a motion to approve the regular meeting minutes of December 19, 2024, as written, seconded by Mrs. Johnson. Motion carried by acclamation.

Mrs. Johnson made a motion to approve the executive session minutes of December 23, 2024, as written, seconded by Ms. Mieras. Motion carried by acclamation.

Board Member Swearing In

The following board members were sworn in to the Planning Commission: Michelle Mieras, Don Nunemaker, Larry Houin and Deb Johnson.

Re-Organization of the 2025 Plan Commission

Mrs. Johnson made a motion to nominate Stan Klotz as President of the Marshall County Plan Commission, seconded by Mr. Nunemaker. Motin carried by acclamation.

Mr. Klotz made a motion to nominate Deb Johnson as the Vice President of the Marshall County Plan Commission, seconded by Ms. Mieras. Motion carried by acclamation.

Mrs. Johnson made a motion to nominate Craig Cultice as the Secretary of the Marshall County Plan Commission, seconded by Mr. Klotz. Motion carried by acclamation.

Mr. Klotz made a motion to nominate Deb Johnson and Terri Barnhart to the Technical Review Committee, seconded by Ms. Mieras. Motion carried by acclamation.

Mr. Klotz made a motion to nominate Larry Houin to the Marshall County Board of Zoning Appeals as a Plan Commission appointment, seconded by Mrs. Johnson. Motion carried by acclamation

Mr. Klotz made a motion to retain Attorney Derek Jones as the Marshall County Plan Commission Board attorney, seconded by Mrs. Johnson. Motion carried by acclamation.

Mr. Klotz agreed to be the City of Plymouth Liaison with Ms. Mieras as the alternate.

Mrs. Johnson made a motion to table the Planning Commission's BZA alternate, seconded by Mr. Klotz. Motion carried by acclamation.

The first item of business was 25-PC-01 HUSBAND, James & Mary Susan - A request for a one lot minor subdivision; located at: 5th Rd. (50-42-17-000-116-000-009) Plymouth, IN Zoned A-3. Mr. James Husband of 13560 5th Rd., Plymouth was present to represent his request. Ms. Lydia Dutton presented the findings of fact.

The property is located on 5th Road in North Liberty Township, in Plymouth, Indiana. The parcel number is 50-42-17-000-116-000-009, currently zoned Agricultural Residential (A-3). A minor subdivision is requested for purposes of the transfer or sharing of ownership. A subdivision will need to conform to existing zoning and subdivision control regulations. Whereas the current property is measured at 6.38 acres, with a width of approximately 411. 65' and a depth of 761.47' on the west perimeter, the owner has proposed a subdivision be made for the northwest corner.

Recommendation:
The County Plan Commission may wish to advise the applicant on regulations for zoning that would be relevant to future site plans. This may include minimum lot sizes, minimum setbacks, the use of tract space or shared driveway easements, and the conservation of agricultural land by cluster housing.

The applicants have children that are moving back into the area and plan to build a house on the property.

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

Ms. Mieras made a motion to approve 25-PC-01 HUSBAND, James & Mary Susan - A request for a one lot minor subdivision; located at: 5th Rd. (50-42-17-000-116-000-009) Plymouth, IN Zoned A-3 and pass to the Marshall County Commissioners with a favorable recommendation, seconded by Mrs. Johnson. Motion carried with a voice vote 6-0.

The second item of business was 25-PC-02 MARSHALL COUNTY PLAN COMMISSION FARM SCALE SOLAR ENERGY SYSTEMS- A request to update the Marshall County Zoning Ordinance to add a 2-year moratorium on the development of Farm-Scale Solar Energy Systems.

1. That a moratorium is hereby created and established which specifically provides that no new building permits, land use applications, site development plans, including applications for improvement location permits, special exceptions, variances or rezonings pertaining to Farm Scale Solar Energy Systems will be accepted by the Marshall County Building Commission, Marshall County Plan Commission or Marshall County Board of Zoning Appeals for a period of

24 months from the passage of this proposal; that the Marshall County Plan Commission and Marshall County Plan Director consider and determine the most appropriate building, zoning and land use regulations which should be adopted and incorporated into the Marshall County Zoning Ordinance as the same pertain to Farm Scale Solar Energy Systems. 2. That in proposing the above amendment, the Marshall County Plan Commission has given due consideration and reasonable regard to: A. The Comprehensive Plan; B. Current conditions and concerns within Marshall County's districts; C. The most desirable use for which the land in each district is designated; D. The conservation of property values throughout the jurisdiction, and; E. Responsible growth and development. That the Marshall County Plan Commission finds the above reasons sufficient to support the moratorium set forth above.

Recommendation

Based on the information provided and reviewed by the Technical Review Committee, the staff and TRC would recommend approval of the proposed moratorium for 24 months while the Planning Commission, Board of Zoning Appeals, and County Commissioners determine more appropriate building, zoning and land use regulations. That the moratorium be adopted for the Marshall County Zoning Ordinance as pertaining to Farm Scale Solar Energy Systems.

Board Attorney, Mr. Jones, stated that this board has four moratorium requests before the board 25-PC-02, 03, 04 and 05; they are modifications/changes to the zoning ordinance. This moratorium request is the same as that of any change to the ordinance. These are proposals that have been put forth by the Marshall County Board of Commissioners. The job of the Plan Commission is to review and consider based on statutory requirement and then make a recommendation. There are three voting options: favorable, unfavorable, and no recommendation. This vote is only a recommendation to the Board of Commissioners. The Board of Commissioners have the ultimate authority to either approve, deny or amend. The advertisement for this public meeting and notice of public hearing was published in the Pilot News on January 8, 2025.

President Klotz stated that this moratorium will allow the Plan Commission time to address modifications to the existing ordinance.

Ms. Mieras asked Attorney Jones for clarification if the Board of Zoning Appeals would be making a recommendation as well. Mr. Jones stated that the Board of Zoning Appeals cannot make any recommendations. It is the Plan Commission and/or County Commissioners who initiate proposals with the County Commissioners having the ultimate role of approval.

Mrs. Johnson made a motion to open for public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

1. Vera Tetzlaff 19814 SR 8 Will not live here if the solar farm gets approved. Questioned if the test site was required to be permitted.

Mr. Cultice made a motion to close the public hearing, seconded by Mr. Nunemaker. Motion carried by acclamation.

Ms. Mieras asked if this proposal could be amended later. Attorney Jones stated that the Plan Commission cannot amend the proposal as it was not initiated at the Plan Commission.

Mrs. Johnson asked Attorney Jones if the Plan Commission finishes the ordinance changes can the board of County Commissioners lift the moratorium. Attorney Jones said yes, they can lift the moratorium through a specified process.

Mrs. Johnson made a motion to approve 25-PC-02 MARSHALL COUNTY PLAN COMMISSION FARM SCALE SOLAR ENERGY SYSTEMS- A request to update the Marshall County Zoning Ordinance to add a 2-year moratorium on the development of Farm-Scale Solar Energy Systems and send to the Marshall County Commissioners with a favorable recommendation, seconded by Mr. Nunemaker. Motin carried with a voice vote 6-0.

Mrs. Johnson wanted clarification that the next proposal is for utility scale battery only and not residential. President Klotz stated when the moratorium was originally placed on batteries they didn't take into consideration residential batteries. That was a mistake. What is being proposed is now for utility scale only. Attorney Jones stated that within the proposal there is a definition of utility scale battery energy storage system. That refers to IC 24-14-8-3.

The third item of business was 25-PC-03 MARSHALL COUNTY PLAN COMMISSION UTILITY SCALE BATTERY ENERGY STORAGE SYSTEMS- A request to update the Marshall County Zoning Ordinance to add a definition for Utility Scale Battery Energy Storage System and adding a 2-year moratorium on the development of such projects.

1. That a moratorium is hereby created and established which specifically provides that no new building permits, land use applications, site development plans, including applications for improvement location permits, special exceptions, variances or rezonings pertaining to Utility Scale Battery Energy Storage Systems will be accepted by the Marshall County Building Commission, Marshall County Plan Commission or Marshall County Board of Zoning Appeals for a period of 24 months from the passage of this proposal; that the Marshall County Plan Commission and Marshall County Plan Director consider and determine more appropriate building, zoning and land use regulations which should be adopted and incorporated into the Marshall County Zoning Ordinance as these pertain to Utility Scale Battery Energy Storage Systems. 2. That in proposing the above amendment, the Marshall County Plan Commission has given due consideration and regard to: A. The Comprehensive Plan; B. Current conditions and character of districts of the County; C. The designated and most desirable use of land in each district; D. The conservation of property values throughout the jurisdiction, and; E. Responsible growth and development. That the Marshall County Plan Commission finds the above stated reasons sufficient to support the amendment set forth above.

Based on the information provided and reviewed by the Technical Review Committee, the staff and TRC would recommend approval of the proposed moratorium for 24 months during which time the most appropriate building, zoning, and land use regulations may be reviewed. Regulations may need to include safe disposal of solid and hazardous waste, materials management, and resource conservation as granting of authority to the Marshall County for Utility Scale Battery Energy Storage Systems.

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

Mrs. Johnson is looking forward to reconvening the committee to finalize the proposal to the Plan Commission.

Mrs. Johnson made a motion to approve 25-PC-03 MARSHALL COUNTY PLAN COMMISSION UTILITY SCALE BATTERY ENERGY STORAGE SYSTEMS- A request to update the Marshall County Zoning Ordinance to add a definition for Utility Scale Battery Energy Storage System and adding a 2-year moratorium on the development of such projects with a favorable recommendation to the Marshall County Commissioners, seconded by Mr. Nunemaker. Motin carried with a voice vote 6-0.

The fourth item of business was 25-PC-04 MARSHALL COUNTY PLAN COMMISSION DATA CENTERS- A request to update the Marshall County Zoning Ordinance to add a 2-year moratorium on the development of Data Center projects.

1. That a moratorium is hereby created and established which specifically provides that no new building permits, land use applications, site development plans, including applications for improvement location permits, special exceptions, variances or rezonings pertaining to Data Centers [for Farm Scale Solar Operations] will be accepted by the Marshall County Building Commission, Marshall County Plan Commission or Marshall County Board of Zoning Appeals for a period of 24 months from the passage of this proposal; that the Marshall County Plan Commission and Marshall County Plan Director consider and decide on the best and most appropriate building, zoning and land use regulations which should be adopted and incorporated into the Marshall County Zoning Ordinance as these same would pertain to Data Centers [for Farm Scale Solar operations]. 2. That in proposing the above amendment, the Marshall County Plan Commission has given due consideration and reasonable regard to: A. The Comprehensive Plan; B. Conditions within the County contributing to a need for additional scientific information on the use and decommissioning of Data Centers [for Farm Scale Solar operations]; C. The designated or most desirable use for which land in each section of the County is determined in survey or plat; D. The conservation of property values throughout the jurisdiction, and; E. Responsible growth and development. That the Marshall

County Plan Commission finds the above stated reasons sufficient to support the amendment, as set forth above.

Recommendation
Based on the information provided and reviewed by the Technical Review Committee, the staff and TRC would recommend approval of the proposed moratorium for 24 months during which time appropriate building, zoning and land use regulations may be adopted and incorporated into the Marshall County Zoning Ordinance. Regulations may be considered to include environmental policies for disposal of solid and hazardous waste, for management of materials, and for the authority of the Planning Commission, Board of Zoning Appeals, or County Commissioners on concerns specific to the disposal of energy devices.

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

1. Gale Lewallen 1100 E. Shore Dr. Would like clarification on the presentation where it showed in red that this was for Data Centers in relation to farm scale solar. Attorney Jones responded saying the presentation that includes farm scale solar in red is not part of the proposal from the commissioners. This board can only approve, deny or give no motion on the proposal presented.
2. Tim Starr 10926 Michigan Rd. Believes Marshall County is missing out on these data centers. He believes there has to be green energy for data centers.
3. Casey Neidlinger 16682 14B Rd. Brought up the data center in New Carlisle and his concern for the water aquifer. Public should be the first priority.

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

President Klotz stated that our current ordinance doesn't have anything in it that pertains to data centers. This is the reason for the moratorium.

Ms. Mieras made a motion to approve <u>25-PC-04 MARSHALL COUNTY PLAN COMMISSION DATA CENTERS-</u> A request to update the Marshall County Zoning Ordinance to add a 2-year moratorium on the development of Data Center projects with a favorable recommendation to the Marshall County Commissioners, seconded by Mrs. Johnson. Motion carried with a voice vote 6-0.

The Plan Director asked the board to strike in the presentation where it includes Farm Scale Solar Energy Systems as spoken about earlier.

The fifth item of business was <u>25-PC-05 MARSHALL COUNTY PLAN COMMISSION CARBON CAPTURE-</u> A request to update the Marshall County Zoning Ordinance to add a definition for Carbon Capture Projects and adding a 2-year moratorium on the development of such projects.

1. That a moratorium is hereby created and established which specifically provides that no new building permits, land use applications, site development plans, including applications for improvement location permits, special exceptions, variances or rezonings pertaining to Carbon Capture and Farm Scale Solar Energy Systems will be accepted by the Marshall County Building Commission, Marshall County Plan Commission, or Marshall County Board of Zoning Appeals for a period of 24 months on passage of this proposal. 2. That due consideration has been given in proposing the above amendment, with regard to Marshall County Planning Commission's support of: A. The Comprehensive Plan; B. Agricultural and forested conditions of the County and communities provided for in Plan; C. The use of land and need for agricultural tillage, drainage, natural wetlands and other features; D. The conservation of property values throughout the jurisdiction, and; E. Responsible growth and development. That the Marshall County Plan Commission finds these reasons are sufficient to support the amendment set forth above.

Recommendation
Based on the information provided and reviewed by the Technical Review Committee, the staff and TRC would recommend approval of the proposed moratorium for 24 months. The moratorium will encourage land use and zoning regulations as approved under the Marshall County Zoning Ordinance.

Ms. Mieras asked for more information on carbon capture. President Klotz gave a brief explanation.

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

1. Paul Levett 16161 18th Rd. Thanked the board for the proposed moratoriums. Wants to highlight HB#1628 and its possible impact.

Ms. Mieras made a motion to close the public hearing, seconded by Mrs. Johnson. Motion carried by acclamation.

Mr. Nunemaker made a motion to approve <u>25-PC-05 MARSHALL COUNTY PLAN COMMISSION CARBON CAPTURE-</u> A request to update the Marshall County Zoning Ordinance to add a definition for Carbon Capture Projects and adding a 2-year moratorium on the development of such projects, with a favorable recommendation to the Marshall County Commissioners, seconded by Mrs. Johnson. Motion carried with a voice vote 6-0.

Other Business

<u>House Bill 1628</u>

The County Commissioners are going to send a letter or a resolution to the state legislature that pertains to House Bill 1628 because they don't want to lose their home rule in Marshall County. Would the Plan Commission support sending a letter stating that Marshall County Plan Commission doesn't support this house bill 1628?

Mr. Nunemaker made a motion to approve sending said letter that the Marshall County Plan Commission doesn't support house bill 1628, seconded by Mrs. Johnson.
A few of the members hadn't read house bill 1628 and wasn't either for or against but didn't want to move forward without having read it. Mr. Nunemaker withdrew his motion.

Plan Director Evaluation

President Klotz stated that there is normally a plan director job evaluation in January. Since the plan director is new, he proposes to schedule an executive session at the end of her probationary time to have a discussion and offer guidance or answer any questions she might have.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

April 24, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, April 24, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, and Stan Klotz. Staff present was Lori Lowry and Teena Hunsberger Administrative Assistants. Members absent were Terri Barnhart, Michelle Mieras, and Brieanna Slonaker.

Mr. Nunemaker made a motion to approve the minutes of the March 27, 2025, Regular Plan Commission meeting, seconded by Mrs. Johnson. Motion carried by acclamation. Mr. Cultice abstained.

The first item of business was 25-PC-07 SCHMIDT, James & Rita - A request for a one lot minor subdivision; located at: 4900 French St., Plymouth, IN Polk Twsp, Zoned T-1. Rita Schmidt of 4647 12B Rd. Bourbon, James Schmidt 635 N. Harrison Warsaw, IN and James McLochlin of Whiteman Land Survey were present to represent the request. Mrs. Lowry presented the findings of fact.

The proposed subdivision will create a smaller lot containing an existing residence. The residence is already served by existing an existing well and septic system. The new lot's existing structures meet required setbacks for T-1 zoning. Both lots have access to the adjacent French Street. The proposed subdivision is consistent with the standards for orderly development, the Comprehensive Plan, and other standards of the Subdivision Control Ordinance.

Recommendation:
Based upon the information provided, staff would recommend approval of the application.

The applicant's plan is to split the ground and sell the parcel with the house to their sister.

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

1. Jerry Ross 17555 Main St. Plymouth Lives directly east of the property. Questioned the survey stakes. The applicant stated they had the property surveyed so they knew the exact property lines for cleaning fence rows.

Mr. Cultice made a motion to close the public hearing, seconded by Mr. Nunemaker. Motion carried by acclamation.

Mr. Cultice made a motion to approve 25-PC-07 SCHMIDT, James & Rita - A request for a one lot minor subdivision; located at: 4900 French St., Plymouth, IN Polk Twsp, Zoned T-1, seconded by Mr. Calhoun. Motion carried with a voice vote 5-0 with Mrs. Johnson abstaining.

Plan Director Update

Mrs. Johnson made a motion to hire Nicholas Witwer as the Marshall County Plan Director, seconded by Mr. Nunemaker. Motion carried with a voice vote 6-0. Mr. Witwer's start date will be April 28, 2025.

Ordinance Discussion

The BESS committee last met when Mr. Adley was here on November 19th. The committee met again on Tuesday, April 22nd and continued the review. The BESS review will continue under the direction of the new plan director. It was discussed that the next ordinance review will be the solar ordinance review. President Klotz stated that the two ordinance reviews with the biggest impact should go first which are BESS and Solar.

President Klotz stated that at the state level on H.B. 425 local zoning will still keep authority on Solar and Battery Energy Storage Systems. There's still a possibility that there could be a limit of one year on moratoriums.

Due to the ordinances having little information on drainage the committee will look to the county surveyor to assist in reviewing the proposal.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

May 22, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, May 22, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, Brieanne Slonaker and Stan Klotz. Staff present was Nicholas Witwer, Plan Director and Lori Lowry Planning Staff. Members absent were Terri Barnhart and Michelle Mieras.

Mrs. Johnson made a motion to approve the minutes of the April 24, 2025, Regular Plan Commission meeting, seconded by Mr. Cultice. Motion carried by acclamation.

The first item of business was 25-PC-09 MUNNO, Anthony - A request for Sandy Beach Subdivision Lake of the Woods Phase 2; located at 3405 Lakeshore Dr. Bremen German Twsp., Zoned L-1. Mr. Bob Aloi of Jones Petri & Rafinski was present to present the applicant's request. Mr. Witwer presented the findings of fact.

The applicant currently owns 2 parcels and would like to create Sandy Beach Subdivision, Lake of the Woods Phase 2 with Lot 7A, 8A, 36A & 37A. The parcels are adjacent to lake residential properties and surround the end of a public right of way.

Recommendation:
Based upon the information provided, the staff would recommend approval of the application.

There is a house, garage, and a couple small buildings currently on the buildings. This was once a public beach area that had a couple changing buildings which are still on the property.

Mr. Cultice confirmed with Mr. Aloi that lot 37A will have access to the south.

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

1. Michelle Moser 3439 Lakeshore Dr. Bremen Right outside their garage is a lift station. She had a question with the narrow roadway how anyone would be able to go in and out that way. Questioned whether people will be building on the new parcels. The plan director explained there is a possibility of building, but they would be required to meet all the requirements or apply for a variance.

After discussion about the roadway to the new plated lots Mr. Aloi stated that the dedicated roadway is 40' and provides access to the lots.

The original parcels were lot 7, 8, 36, 37 and the Town of Bremen Park. In 1990 Munno's vacated lots 7,8,36 and 37 only from the Sandy Beach Subdivision which resulted in a larger lot and be known as Lot 7. The plan is to take the lot 7 and the purchased Bremen Park that the Munno's owns and go from 2 lots back to 4.

Mr. Cultice made a motion to close the public hearing, seconded by Mrs. Johnson. Motion carried by acclamation.

Mrs. Johnson made a motion to approve 25-PC-09 MUNNO, Anthony - A request for Sandy Beach Subdivision Lake of the Woods Phase 2; located at 3405 Lakeshore Dr. Bremen German Twsp., Zoned L-1, seconded by Mr. Calhoun. Motion carried with a voice vote 7-0.

Ordinance Discussion

Wabash Valley Power gave a presentation at REMC on battery energy storage systems and what they see for the future of power. It was a very good discussion. The information presented will help draft a new ordinance.

After the discussion Mr. Klotz questioned whether our current proposed three breakdowns of types of battery energy storage systems should be 4 types. For instance, the Burr Oak project will take the energy out of the county whereas the one discussed by Wabash Valley the majority of the energy is kept in the county.

The plan director commented that there is an importance of creating an ordinance to protect the county for all sizes of battery energy storage systems.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

June 26, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, June 26, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Terri Barnhart, Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, Michelle Mieras and Stan Klotz. Staff present was Nicholas Witwer, Plan Director and Lori Lowry Planning Staff. Member absent was Brieanne Slonaker.

Mrs. Johnson made a motion to approve the minutes of the May 22, 2025, Regular Plan Commission meeting, seconded by Mr. Cultice. Motion carried by acclamation.

The first item of business was 25-PC-10 CENTA, Thomas & Kristin - A two lot minor subdivision request; located at: 10609 Quince Rd. Plymouth West Twsp., Zoned L-1. Ms. Kristin Centa was present to represent their request. Mr. Witwer presented the findings of fact.

The applicant currently owns 2 parcels and would like to divide a portion of an L-1 off water parcel to combine with an L-1 on water parcel. The smaller Lakeside parcel contains a residence that is very close to the property line between owned lots. The subdivision will provide adequate spacing for improvements to the residence while maintaining setback requirements.

Recommendation:
Based upon the information provided, the staff would recommend approval of the application.

Mrs. Johnson made a motion to open for public hearing, seconded by Mr. Nunemaker. Motion carried by acclamation. There being nobody to speak for or against Mrs. Johnson moved and Mr. Cultice seconded the motion to close the public hearing. Motion carried by acclamation.

Ms. Mieras made a motion to approve 25-PC-10 CENTA, Thomas & Kristin - A two lot minor subdivision request; located at: 10609 Quince Rd. Plymouth West Twsp., Zoned L-1, seconded by Mr. Houin. Motion carried with a voice vote 8-0.

Carbon Capture

Discussion was brought before the board to find out whether the board would entertain further discussion on a possible carbon capture ban.

Mr. Nunemaker made a motion to have the plan director to bring discussion on a possible carbon capture ban back before the board, seconded by Mr. Houin. Motion carried by acclamation.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

July 24, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, July 24, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Terri Barnhart, Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, Michelle Mieras and Stan Klotz. Staff present was Nicholas Witwer, Plan Director and Lori Lowry Planning Staff. Member absent was Brieanne Slonaker.

Mr. Cultice made a motion to approve the minutes of the June 26, 2025, Regular Plan Commission meeting, seconded by Mrs. Johnson. Motion carried by acclamation.

The first item of business was 25-PC-08 STUTLER, Randall & Denise - A request by Kenneth Jones for Stutler Minor Subdivision to split the property into 2 parcels; located at: 17086 12th Rd., Plymouth, IN West Twsp., Zoned A-1.

The applicant requested prior to the meeting that this case be tabled until further notice.

The second item of business was 25-PC-11 MISSIONARY CHURCH OF BREMEN NORTH CENTRAL DISTRICT- A request for a Right of Way Vacation of 2 C Road between Elm Road and Washington Street Bremen, IN. Cameron Baroon Project Surveyor from AbonMarche, but represents Missionary Church of Bremen was present to represent the request. Mr. Witwer presented the findings of fact.

Bremen Missionary Church owns the property(ies) to the North and South of the requested ROW vacation. 2C Road extends to the east end of the residential area then turns South to 3rd Road. The subdivision is accessible currently from Elm Road, Washington Street, and 2C Road. With approval of the Vacation, residences will lose direct access to Elm Road. They will access Elm Road from 3rd Road.

Recommendation
Based on the information provided, staff recommends approval of the requested Right of Way Vacation.

The applicant will provide a boundary survey if and when the request is approved. Surveyor Cultice did recommend to the commissioners if this gets approved, on the curve the eastern most part so the Highway Department would know the right of way is on those two corners.

There was discussion of why the interior lot lines haven't been removed and if there has been thought of a drainage study. Currently there has been no drainage study. However, if the church pursues a parking lot then yes there would be a drainage study. Surveyor Cultice stated

that the church is already over 60,000 sq ft of impervious surface area. Marshall County requires any structure greater than 4,000 sq ft of pervious/impervious surface area requires a drainage plan. Questioned if Bremen has a storm water plan. From the county and drainage board all the water flows south westerly into the catch basin by the road and then goes to the Bellman County Tile. This tile wasn't built to carry 60,000 sq ft of impervious unrestricted. The County would like there to be something in place to protect that pipe. The applicant agreed.

Councilwoman Johnson asked if they have a plan to widen Washington Street to get to 3rd Road. Currently the condition of Washington Street is nothing more than an alley. If this request gets approved the road will most likely need to be improved. The church realizes this and is willing to work with the county on how to improve the road. The gas main was also brought up. The applicant is already in conversation with the utility company to re-route the utility main. NIPSCO has already been asked if they could vacate that main and go up Washington St. to serve the eight houses.

The plan director stated that part of the condition of approval from the TRC was that Washington St. be approved to county road standard.

The applicant's desire is to expand in the future. They would like to utilize the property to the north. But, for safety concerns they can't for certain uses.

The board discussed the responsibility of the road being the county's responsibility, but the church did comment that they would be willing to help bare the cost.

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

1. Ron Stichter 8285 US 6 Is a member of the church and is in favor of the request. With the church not having yard space or room to expand the facility he believes this is the best opportunity for the church. Recognizes there would be down to two outlets , but they feel they do have some responsibility in helping to improve Washington Street.
2. Brandt Aube 4362 2C Rd Lives on the north side. Sees positivity as it might slow down or restrict extra traffic.
3. Sandy Bellman 3013 Elm Rd Has a concern about water runoff.
4. Keith Fraine 4424 3rd Rd Is the Director of Operation at Bremen and also lives in this subdivision. Approximately thirty years ago they had to redo their septic system, and the Health Department approved putting it in the right of way. Looking at the map and the right of way it leaves him with a concern that the road could be right up next to their garage. He's had conversations with the fire chief, and he has major concerns with losing access to 2C road. In addition, the fire chief doesn't believe the condition of Washington Street can withstand their fire trucks. There are major concerns with this proposal. Bremen's Plan Commission meeting is scheduled for August 5th.
5. James Brown 4400 2C Rd Doesn't see the benefit of vacating that portion of 2C Road and rerouting to Washinton St. and it's poor condition. Opposed to request.
6. Dave Britton 4417 2C Rd Is opposed to the project. Has concerns about water. Believes blocking off the road for events would be the best.

7. Steve Wirgau 4346 2C Rd Is concerned about emergency vehicles being restricted access. Has a concern about water with the subdivision.
8. Anthony Tallarita 4414 2C Rd Sent a letter against the request.

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

After discussion Mr. Nunemaker made a motion to table the request to the August 28th meeting, seconded by Mrs. Johnson. Motion carried with a voice vote 6-1-1 with Ms. Mieras against and Mr. Klotz abstaining.

The third item of business was 24-PC-12 BROWN, John & Virginia - A request by Darick Hernandez to rezone the property from T-1 Town Residential to A-3 Agricultural Residential; located at: 4A Rd. Plymouth 50-42-10-000-002-000-009 North Twsp., Zoned T-1. Mr. Darick Hernandez was present to represent his request. Mr. Witwer presented the findings of fact.

The property is currently used as a farm field. The T-1 Zoning includes the Linkville intersection and some of the surrounding fields and farms.

Recommendation:
Based on the information provided, staff recommends approval of the zoning change request to A-3 Agricultural Residential

The applicant was present to request the rezoning change with written permission of the power of attorney from the John Brown estate. The purchase of the property is contingent upon the approval of this request. Their plan is to build a house, a barn and have some chickens, goats and maybe a cow or two.

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

1. Steve Richard 11651 4 A Rd. Owns property to in the area. Would like to see the zoning stay T-1.

Mr. Nunemaker made a motion to close the public hearing, seconded by Mr. Calhoun. Motion carried by acclamation.

Mr. Nunemaker made a motion to approve 24-PC-12 BROWN, John & Virginia - A request by Darick Hernandez to rezone the property from T-1 Town Residential to A-3 Agricultural Residential; located at: 4A Rd. Plymouth 50-42-10-000-002-000-009 North Twsp., Zoned T-1 and forward to the County Commissioner's with a favorable recommendation, seconded by Mr. Houin. Motion carried with a voice vote 8-0.

Carbon Capture

A draft ordinance was sent out to the board for review. The plan director presented a visual and gave a brief explanation of carbon capture and the process. With all of the unknowns the thought of the ban over moratorium is more appropriate.

Mrs. Johnson made a motion to send the draft to the attorney and bring this request back to the Plan Commission with a public hearing, seconded by Mr. Houin. Motion carried with a voice vote 8-0.

2026 Proposed Budget

The proposed budget was presented to the board with a recommended 3% increase for employees, a few small increases, and a substantial increase to property cleanup. This has previously been discussed with the county council. The proposal for 2026 is $284,932.46.

Mrs. Barnhart made a motion to approve the proposed 2026 Plan Commission budget, seconded by Mr. Nunemaker. Motion carried by acclamation.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

August 28, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

Vice-President, Debrah Johnson, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, August 28, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Terri Barnhart, Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, Michelle Mieras, Brieanne Slonaker. Staff present was Nicholas Witwer, Plan Director and Lori Lowry Planning Staff. Member absent was Stan Klotz.

Mr. Nunemaker made a motion to approve the minutes of the July 24, 2025, Regular Plan Commission meeting, seconded by Mrs. Johnson. Motion carried by acclamation.

The first item of business was 25-PC-11 MISSIONARY CHURCH OF BREMEN NORTH CENTRAL DISTRICT- A request for a Right of Way Vacation of 2 C Road between Elm Road and Washington Street Bremen, IN. Cameron Baroon Project Surveyor from AbonMarche, but represents Missionary Church of Bremen was present to represent the request. Mr. Witwer presented the findings of fact.

The applicant withdrew their request prior to the meeting and the case is closed.

The second item of business was 25-PC-13 BENNINGHOFF, Kathryn & Bruce Brown - A request for an alley vacation on the Addition to Tyner Subdivision from block 15 to block 17 lot2; located west of Walnut St. in Tyner, IN Zoned T-1. Frank Benninghoff of 17729 Walnut St. Plymouth was present to represent his request. Mr. Witwer presented the findings of fact.

The alley is an overgrown "abandoned" right of way with little use and of little value or benefit in it's current state to the public. The requested vacation runs adjacent to only two property owners in the subdivision, the Benninghoff's (petitioner) and one other. While an intersecting alley does meet this alley, vacating would minimally impact use of the intersecting.

Ms. Slonaker made a motion to open for public hearing, seconded by Mr. Nunemaker. Motion carried by acclamation.

1. Rita Schmidt Lemert 4900 French St. Trustee of adjacent property. Questioned why they are asking to vacate the alley. As they were cleaning the brush they removed a portion of the fence as it was in disrepair. Then Mr. Benninghoff put up a new fence on their property line and questioned the legality. Their property requires access from Miller or Boyce Streets and wants to make sure one of them are open. The plan director stated that there is access to the property from the trustee's property.

The applicant commented that even before he owned the property as early as the 1920's that the alley was incorporated into their properties. The road has been abandoned for many years and without any

interest. If anyone is interested in it being a road they should clear out the trees and shrubs and put down a road bed. A new fence was put up as they have a dog.

2. Tim Caznecki 17729 Walnut St. Lives on the border of the applicant. Wants to make sure the fence doesn't need to be removed. The current alley is completely overgrown and would take a lot of work to make it usable.

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

Comments from the board were made of the overgrown trees in the proposed alleyway and there is already access issues from Walnut Street.

Mr. Nunemaker made a motion to approve 25-PC-13 BENNINGHOFF, Kathryn & Bruce Brown - A request for an alley vacation on the Addition to Tyner Subdivision from block 15 to block 17 lot2; located west of Walnut St. in Tyner, IN Zoned T-1 with a favorable recommendation, seconded by Mr. Calhoun. Motion carried with a voice vote 7-1 with Ms. Mieras voting against.

The third item of business was 25-PC-14 MARSHALL COUNTY PLANNING COMMISSION - A proposal to place a ban within Marshall County, Indiana for the filing, processing, review of future or existing, or acceptance of all applications related to carbon sequestration.

The plan commission has requested an ordinance to ban the sequestration and transporting of captured carbon dioxide gas within Marshall County.

The transporting and sequestration of captured carbon dioxide gas is an unproven and emerging technology being developed and implemented globally with inconsistent scientific evidence and results. Some of those results have led to deaths, hospitalizations, and contaminated drinking water for unassuming populations. Because of the potential damage to life and our environment, Marshall County plan commission feels that the carbon sequestration practices, technologies, and methods pose a legitimate threat to the health and safety of residence and the environment.

Recommendation
Based upon the information provided, the staff recommends the plan commission make a favorable recommendation to the Marshall County Commissioners to pass the Carbon Capture Sequestration Ban Ordinance.

The proposed ordinance was read as follows:

An Ordinance AMENDING ORDINANCE COMMONLY KNOWN AS "THE MARSHALL COUNTY ZONING ORDINANCE", AS AMENDED;

2025-21

WHEREAS, the County Commissioners of Marshall County, Indiana, as the executive and legislative body of Marshall County, has the authority to adopt ordinances relating to the administration of Marshall County government.

WHEREAS, the County Commissioners seek to foster desirable growth in an orderly and well considered manner in Marshall County.

WHEREAS, starting in 2007, Marshall County began preparation of a Zoning Ordinance which regulates all uses of land.

WHEREAS, the Marshall County Plan Commission and Marshall County Commissioners are authorized by Indiana Code 36-7-4-601 to adopt zoning and land use regulations to secure adequate light, air, convenience of access, and safety from fire, flood, and other danger; to lessen or avoid congestion in public ways; to promote the public health, safety, comfort, morals, convenience and general welfare; and to otherwise accomplishing the purposes of Indiana Code 36-7-4, et seq.

WHEREAS, the Marshall County Plan Commission and Marshall County Commissioners are interested in protecting life and safety of the citizens of Marshall County.

WHEREAS, the Marshall County Plan Commission and Marshall County Commissioners are particularly interested in preventing negative economic impacts to any area of Marshall County caused by industrial or utility projects.

WHEREAS, the Marshall County Plan Commission and Marshall County Commissioners are interested in protecting the county's aquifers and drinking water supply for the county's citizens.

WHEREAS, the Marshall County Plan Commission and Marshall County Commissioners are interested in the protection of farmland.

WHEREAS, the Marshall County Plan Commission has encountered significant conflicting and evolving information regarding implementation of carbon sequestration projects.

WHEREAS, Indiana's pipeline regulations and safety authority has not yet established guidelines for safe transportation of carbon dioxide in its liquid, volatile state.

WHEREAS, Indiana's Department of Transportation has not had a specific meeting with Marshall County's leadership in regards to trucking carbon dioxide in Marshall County, potential trucking routes, rail car routes, safety, inclement weather event safety, proximity to schools, and proximity to areas of assembly.

WHEREAS, multiple carbon sequestration projects in the United States have had minor to major failures in design and operations, with many projects experiencing technical difficulties.

WHEREAS, preventing the rupture of a carbon dioxide pipeline like Satartia, Mississippi's, pipeline rupture on February 22, 2020, is in the best interest of the County.

WHEREAS, the Marshall County Plan Commission held a public hearing, public meetings, received public comment, and made consideration of reasonable amendments to Marshall County's current zoning regulations.

WHEREAS, the Marshall County Plan Commission and Marshall County Commissioners have received documentation, data, examples of carbon sequestration failures, and concern for life and safety from the public and has documented those public comments at Plan Commission meetings, Marshall County Plan Commission and Marshall County Commissioners believe it is in the best interest of the County to exercise zoning control over carbon sequestration projects in the form of a ban pursuant to Indiana Code 36-7-4, et seq.

WHEREAS, the Marshall County Commissioners believe that a ban on the development of carbon sequestration projects is necessary to ensure that Marshall County's regulations align with strategic preservation and development of unincorporated areas of Marshall County, address life and safety concerns, address any risks to the County's aquifers.

WHEREAS, the Marshall County Commissioners believe that a ban on the development of carbon sequestration projects is necessary for promoting the public health, safety, comfort, morals, convenience and general welfare of the citizens of Marshall County.

WHEREAS, the adoption of this ordinance will follow the statutory procedure set forth in Indiana Code 36-7-4-602(b), as the Marshall County Plan Commission is initiating this zoning ordinance.

WHEREAS, The Marshall County Plan Commission did conduct a public hearing on August 28, 2025, after legal notification, and did recommend favorably on said Zoning Ordinance Amendment.

NOW, THEREFORE, BE IT ORDAINED, that the Marshall County Zoning Ordinance be amended as follows:

Amend Article 3, Standard Zoning District Intent, Uses, & Standards, Section 120 Land Use Matrix to include a Transportation, Communications, and Utilities Use; "Carbon Sequestration". Not permitted or a special exception in any zoning district.

Amend Article 6 to include Section 260 "Carbon Sequestration". And:

A. Any facility or location intended for the compression, liquification, injection, transfer of, transportation of, sequestration of, captured Carbon Dioxide Gas(es).
    1. Including these above listed facilities but not limited to, additionally, any and all facilities, locations, and uses as defined in IC 14-39-2-2, and adopted as definitions of this Zoning Ordinance.

B. Any Carbon Dioxide Plume from being located within the subsurface area within Marshall County, or expanding into Marshall County from "storage facilities" located outside of Marshall County Boundaries.

Amend Article 13 Definitions to include:

Carbon Dioxide – A fluid consisting of more than ninety percent (90%) carbon dioxide molecules.

Carbon Dioxide Injection Well – A well that is used to inject carbon dioxide into a reservoir for carbon sequestration.

Carbon Dioxide Plume – The extent of an underground three-dimensional injected carbon dioxide stream.

Carbon Sequestration – The underground storage of carbon dioxide in a reservoir.
Storage Facility – The subsurface area consisting of the extent of a carbon dioxide plume which is required to be delineated on an approved UIC class VI permit or an amendment to a UIC Class VI permit of a storage operation

Underground Storage of Carbon Dioxide – The injection and storage of carbon dioxide into underground strata and formations pursuant to at least one (1) UIC Class VI permit.

Ms. Mieras requested on ordinance changes that a hard copy of the ordinance be given to the members and also be on the monitor for discussion purposes.

Mr. Cultice requested that railroad be added to the ordinance.

Ms. Slonaker commented that she has a concern about eminent domain with senate bill 425 that was recently passed. If we were to put a ban in place and the state comes in to regulate carbon capture or get eminent domain based on the ban that puts Marshall County at risk. Ms. Slonaker believes it would be a smarter option to write an ordinance that is strict for carbon capture to not be ideal within Marshall County. If eminent domain does take over and the State of Indiana takes over it could go to court which would not be in the best financial position for Marshall County, when this could have been prevented with stricter ordinance.

Mr. Cultice made a motion to open for public hearing, seconded by Mr. Houin. Motion carried by acclamation. There being nobody to speak for or against Ms. Slonaker moved to close, seconded by Mr. Calhoun. Motion carried by acclamation.

A draft of the ordinance will be in the office of the Plan Commission for review prior to the Commissioner's meeting.

The plan director responded to Ms. Slonaker stating that under IC 14-39 concerning carbon capture there is already eminent domain within it especially concerning the pipelining, this ban will makes our stance clear.

Ms. Slonaker commented that yes, we do have the free will to do this but has a concern about the protection of Marshall County if the ban is lifted.

Mrs. Johnson's thoughts were that putting a ban on four items would allow the board time to create ordinances that are "more solid" to protect the county.

The plan director responded to comment that if eminent domain does come into effect we will depend on the language the state uses in the code to define what can be eminent domain.

Ms. Slonaker brought to the board's attention that an Indiana county put a ban on carbon capture and provoked eminent domain. Marshall County does not want to provoke eminent domain.

Ms. Slonaker made a motion to approve <u>25-PC-14 MARSHALL COUNTY PLANNING COMMISSION -</u> A proposal to place a ban within Marshall County, Indiana for the filing, processing, review of future or existing, or acceptance of all applications related to carbon sequestration with the modification to add rail road to the ordinance and send to the Marshall County Commissioners with a favorable recommendation, seconded by Mr. Cultice. Motion carried with a voice vote 8-0.

Other Business

Clean up bid (2966 Plymouth Laporte Trl., Walkerton)

- The pictures of the property that is in violation were shown. Due to no bids being received the planning office will reach out to counsel to find out our next steps.

There are currently seven or eight other violations that are approaching this step. The plan director would like to see other options available without having to go to court. Discussion was brought up that inmates were used in the past to clean up a property. This could potentially be an option.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

September 25, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, September 25, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Terri Barnhart, Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, Michelle Mieras, Brieanne Slonaker and Stan Klotz. Staff present was Nicholas Witwer, Plan Director and Lori Lowry Planning Staff.

Mrs. Barnhart made a motion to approve the minutes of the August 28, 2025, Regular Plan Commission meeting, seconded by Ms. Slonaker. Motion carried by acclamation. Mr. Klotz abstained.

The first item of business was 25-PC-15 Okeefe & Miller - A request for a re-plat of Apoline Warner plat of Breezy Point Subdivision that includes parcels: 504107000024000011, 504107000026000011, 504107000043001011, 504107000043001011, North Lake Dr. Walkerton, IN Polk Twsp., Zoned L-1. Mr. Bob Aloi of Jones Petri & Rafinski was present to represent their request. Mr. Witwer presented the findings of fact.

The site is currently plated as several smaller lake lots and a larger lot that has been combined previously. This replat will transfer land from O'Keefe to Miller, consolidate the O'Keefe Property into one lot, Combine multiple lots, or portions of, owned by Miller into a larger consolidated lot as well as a single home on a smaller lot.

Recommendation:
Based on the information provided, staff recommends approval of the request.

Before this request can move forward the applicants will need to do a transfer of property between Okeefe and Miller. Once this transfer is done a secondary approval will take place with signatures on the plat at that time.

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

Mrs. Johnson made a motion to approve 25-PC-15 Okeefe & Miller - A request for a re-plat of Apoline Warner plat of Breezy Point Subdivision that includes parcels: 504107000024000011, 504107000026000011, 504107000043001011, 504107000043001011, North Lake Dr. Walkerton, IN Polk Twsp., Zoned L-1, seconded by Mr. Cultice. Motion carried with a voice vote 9-0.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary

November 20, 2025
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:00 p.m. on Thursday, November 20, 2025, in Room 203 of the Marshall County Building. Present were Commission Members Terri Barnhart, Brandon Calhoun, Craig Cultice, Larry Houin, Deb Johnson, Don Nunemaker, Brieanne Slonaker and Stan Klotz. Staff present was Nicholas Witwer, Plan Director and Lori Lowry Planning Staff. Member absent was Michelle Mieras.

Mrs. Johnson made a motion to approve the minutes of the September 25, 2025, Regular Plan Commission meeting, seconded by Ms. Slonaker. Motion carried by acclamation.

The first item of business was 25-PC-16 LETENS, Patrick & Bianca - A request for a Vacation of an adjacent easement on Rolling Meadows Subdivision adjacent to Lot 8; located: 16834 Millpond Trl Plymouth, IN West Twsp., Zoned L-1. Mr. Patrick Letens of 16834 Millpond Trl Plymouth and Mr. Roger Denney of 16480 Millpond Trl Plymouth were present to represent his request. Mr. Witwer presented the findings of fact.

The Easement being requested vacated is a 45' wide strip for access to Mill Pond Lake to the owners of lots within Rolling Meadow Subdivision First Addition, located on the South side of Mill Pond Trail. The adjacent property owners maintain the Easement Property to keep it useable. Aerial Photography shows an outcropping into the lake at the end of the easement that has grown in land size from 2018 to 2015, and has become overgrown with thick vegetation.

Recommendation
Based on the information provided, staff recommends a favorable recommendation to the County Commissioners for Vacation, unless reasonable remonstrance is presented. Under legal counsel advisement, this recommendation is to the extent possible by the authority the County has to vacate this easement. The language and description or lack of dedication does not provide a clear indication of who owns the easement or what rights the county has to vacate.

The current waterway off this easement is overgrown. Mr. Denney has been maintaining this easement for over twenty years. They would like to vacate this easement and continue maintaining it. They both had no problem signing something that allows people access.

Legal advised after recommendation it might take going back to original owners of the land since there is no clear dedication of the land or easement.

Mr. Letens contacted DNR and they have no need to get in through this easement as they enter through a different area.

During discussion Mr. Klotz commented that before the commissioners could make any ruling they will need to find out if they have legal right to vacate this easement.

The surveyor commented that it doesn't like to see the county vacating private easements as it's not the county's jurisdiction. This could possibly be more of a case for adverse possession or quiet title.

Mr. Nunemaker made a motion to open for public hearing, seconded by Mrs. Johnson. Motion carried by acclamation. There being nobody to speak for or against Mr. Nunemaker moved and Mrs. Johnson seconded the motion to close the public hearing. Motion carried.

The board advised the applicant that if they took a vote and voted against, they would have to wait a year to come back. Tabling the request would allow them extra time to research or reach out to legal counsel was their alternate option.

Mr. Nunemaker made a motion to table 25-PC-16 LETENS, Patrick & Bianca - A request for a Vacation of an adjacent easement on Rolling Meadows Subdivision adjacent to Lot 8; located: 16834 Millpond Trl Plymouth, IN West Twsp., Zoned L-1 to allow counsel time to research the request, seconded by Mr. Houin. Motion carried by acclamation.

The second item of business was 24-PC-05 Marshall County Plan Commission – A tabled proposed ordinance amending article 3, 6, and 13 to create a regulation for battery energy storage systems. This is a draft ordinance and there will be no voting and passing to the commissioner's tonight. There will be review for feedback and discussion.

AN ORDINANCE REGULATING SITING OF

BATTERY ENERGY STOARGE SYSTEMS (BESS)/ENERGY STORAGE SYSTEM (ESS)

IN MARSHALL COUNTY, INDIANA

WHEREAS, Marshall county, Indiana recognizes the increasing use of Battery Energy Storage Systems/ESS and finds a growing need to properly site battery energy storage systems within the jurisdiction of the county to protect residential, business, and agricultural areas, to preserve the overall beauty, nature, and character of the County, to promote the effective and efficient use of battery energy resources, and to protect the health, safety, and general welfare of the citizens of the County;

WHEREAS, the Marshall County Commissioners previously adopted the Zoning Ordinance pertaining to county zoning and land use controls (the "Ordinance"); and

WHEREAS, the County may lawfully regulate and restrict the use of land for trade, industry, resident or other purposes in accordance with a comprehensive plan and in designs to further the

health, safety, convenience, and welfare of its citizens as set forth in Indiana Code §36-7-4-201; and

WHEREAS, pursuant to Indiana Code §36-1-3, et. Seq. a government unit has all powers necessary and desirable in the conduct of its affairs, though not granted by statute, for the effective operation of government as to its local affairs; and

WHEREAS, the County intends to establish a process for permitting and approving the use of land in the County for Battery Energy Storage Systems that is not inconsistent with federal and state law;

WHEREAS, the adoption of an ordinance regulating Battery Energy storage Systems/ESS is necessary and appropriate to achieve and secure the benefits of these projects and to avoid and/or minimize the risks, dangers, and inconvenience to health, safety, and general welfare of the citizens of the County;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Marshall County that the following standards are required for the approval and permitting of a Battery Energy Storage System/ESS project in Marshall County, Indiana.

Amend Article 3, Section 120: Land Use Matrix, Transportation, Communications, Utilities to include: Two new Uses of BESS/ESS:

	A-1	A-2	A-3	I-1	I-2	EGS
BESS/ESS Tier 1 (0-100 Kw)	P	P	P	P	P	P
BESS/ESS Tier 2 (Over 100 Kw)				P	P	P

Amend Article 13 to include the following definitions in Alphabetical order with existing definitions:

I. DEFINITIONS
   A. “ANSI” means American National Standards Institute.
   B. “Applicant” means the entity or person who submits to the County an application for siting of any Battery Energy Storage System (BESS)/ESS.
   C. “Battery(ies)” means a single cell or group of cells connected electrically in a series, in a parallel, or in a combination of both, which can charge, discharge, and store

energy electrochemically. For the purposes of this Ordinance, batteries utilized in consumer products are excluded from these requirements.

D. "Battery Energy Storage System" (BESS)/ESS means one or more electrochemical devices that charge, or collect, energy from the grid or a generation facility, store that energy, and then discharge that energy at a later time to provide electricity or other grid services.
E. "Cell" means the basic electrochemical unit, characterized by an anode and cathode, used to receive, store, and deliver electrical energy.
F. "Component" Any part of the electrical process of the site, ie.: battery, inverter, transformer, wiring, etc….
G. "Dedicated-Use Building" means a building that is built for the primary intention of housing battery energy storage equipment.
H. "Energy Storage" means any technology that is capable of absorbing electricity, storing the electricity for a period of time, and redelivering the electricity.
I. "ESS" Other systems for storing energy.
J. "Fire Code" means the fire code of the State of Indiana as currently in effect and as hereafter amended from time to time.
K. "Kilowatt" (KW) means a unit of power equal to one thousand watts.
L. "Marshall County Zoning Ordinance" or "Zoning Ordinance" means the Marshall County Zoning Ordinance, as amended.
M. "Megawatt" (MW) means a unit of power equal to one thousand kilowatts.
N. "Megawatt Hours" (MWh) means a standard unit of energy measurement that indicates the usage of 1,000 KW in one hour.
O. "NEC" means National Electric Code.
P. "NFPA" Means the National Fire Protection Association.
Q. "Non-Dedicated-Use Building" means all buildings that contain a BESS and do not comply with the Dedicated-Use Building requirements.
R. "No-Participating Property" means real property that is not a participating property in an energy generation project or BESS.
S. "Non-Participating Residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop a BESS is filed with the County.
T. "Occupied Community Building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the BESS/ESS is filed with the County; a school, place of worship, day care facility, public library or community center.
U. "Operator" means the entity responsible for the day-to-day operation and maintenance of the BESS/ESS, including any third-party subcontractors.
V. "Owner" means the entity or entities with an equity interest in the BESS/ESS including their respective successors and assigns. Owner does not mean (i) the

property owner from whom the land is leased for locating the BESS/ESS unless the property owner has an equity interest in the BESS/ESS; or (ii) any person holding a security interest in the BESS/ESS solely to secure an 2 extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to see the BESS/ESS within one year of such event.

W. "Participating Property" means real property that is the subject of a written agreement a BESS/ESS owner and the owner of the real property that provides the BESS/ESS owner with an easement, option, lease, license or any interest to use the real property for the purpose of constructing a BESS/ESS. Participating property also includes real property that is owned by a BESS/ESS owner for the purpose of constructing a BESS/ESS.

X. "Technical Review Committee-BESS/ESS" means the committee of all departmental directors and managers required to make determinations and approvals of any components of the application(s).

Including but not limited to:

a. Plan Director
b. EMA Director
c. Fire Chief of Project Area Jurisdiction
d. Sheriff
e. Highway Superintendent
f. Health Director
g. ESF-8 Designee
h. Building Commissioner
i. County Surveyor

Add Section 260 to Article 6

II. Intent

This Ordinance governs the siting of BESS/ESS permitted, installed, or modified with a rated nameplate capacity of equal to or greater than 1 kilowatts (1 megawatt) including those used for the purpose of providing electric to meet or offset all or part of a host operation energy needs.

III. PROHIBITION

No entity shall construct, install, locate or operate a Battery Energy Storage System (BESS)/ Energy Storage System (ESS) without having fully complied with the provisions of this Ordinance.

IV. APPLICATION REQUIREMENTS

Prior to the construction of a BESS/ESS, the Applicant shall obtain approval for the following: (1) a Special use permit from the Marshall County Board of Zoning Appeals ("BZA") to permit a BESS/ESS of Tier 2 and Tier 3 on zoned land, as described In Article 3 Section 120: Land Use Matrix of the Marshall county Zoning Ordinance, (2) a Request for Variance for any variances anticipated on the BESS/ESS Project, as described below and in Article 3 Section 120: Land Use Matrix of the Marshall county Zoning Ordinance (3) an Improvement Location Permit from the Marshall County Building Commissioner, as described below.

A. The Application for a Permit and/or Special Use Permit
    1. The application shall be filed with the Building Commissioner's Office for the BZA and include the following items:
        a. A BESS/ESS Project summary, including, to the extent available: (1) a general description of the project, including its approximate name plate storage capacity (kwh, mwh); the potential equipment manufacturer (s), types(s) of BESS(s)/ESS(s), number of BESS(s)/ESS(s), the general location of the project; and (2) a description of the Applicant, Owner, and Operator, including their respective business structures;
        b. The name of any parent company(companies), including any chain of ownership of any company or combination of businesses/subsidiaries involved in the ownership of the applicant. No foreign based company or control of the companies will be allowed;
        c. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with BESS/ESS on their properties, if known;
        d. Written consent from the proposed property owners and/or copies of any signed and dated lease options where BESS/ESS may be located;
        e. Waivers from the setback requirements executed by the Occupied Community building owners and/or the Non-Participating Property owners;
        f. A site plan at an appropriate scale showing the planned location of the BESS/ESS and all related components, Substations, electrical cabling, ancillary equipment, operations and maintenance building, third party transmission lines, Participating and Non-Participating Residences, Occupied Community Buildings, parcel boundary

lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines, and the location of any construction staging area including concrete batch plants;

g. Location of all existing underground utility lines associated with the BESS/ESS site;
h. Assurance that no portion of the BESS/ESS will contain or be used to display advertisements;
i. Certification that layout, design and installation conform to and comply with all applicable industry standards;
j. A Drainage Plan approved by the Drainage Board;
k. Topsoil will remain in place and not be removed or moved for retention. Topsoil from BESS/ESS unit pad areas is allowed to be redistributed on site.
l. Assurance that the site has sufficient water access;
    i. For Cooling
    ii. For Fire Containment and Fire Fighting
m. A Transportation Plan approved by the Marshall County Commissioners and the Marshall County Highway Superintendent;
n. An Emergency Response Plan approved by the Marshall County Commissioners and the BESS/ESS TRC;
o. An Economic Development Agreement approved by the Marshall County Commissioners and County Council.
p. An Escrow account established and funds deposited in an amount agreed upon by the Marshall County Commissioners and County Council. Escrow can be used at the County's discretion for Road, agricultural, property damages, decommissioning.
    i. Escrow will be replenished upon expenditure.
q. A 2 part proposed Decommissioning Plan for the BESS/ESS.
    1. During the life of BESS/ESS – Replacing damaged or spent batteries.
    2. End of life of project.

V. DESIGN AND INSTALLATION

A. Design Safety Certification

BESS/ESS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from the Underwriters Laboratories (UL), or an equivalent third party. All batteries, cells, panels, racking systems, containers, and all anchoring systems shall be new equipment commercially available; no used or experimental equipment shall be used without the approval of a variance from the County.

B. Siting

1. BESS/ESS units shall be located no closer than twenty feet (20') side to side, and twelve feet (12') end to end.

C. Height

The height of any BESS/ESS battery, cell, racking system, container or Dedicated Use Building is limited to fifteen (15) feet above ground level.

D. Aesthetics and Lighting

1. All on-site utility lines shall be placed buried underground to the extent feasible and as permitted by the servicing utility, except for the main service connection at the utility company right-of-way (ROW).
2. All Power and communication lines running between BESS/ESS and associated infrastructure to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Marshall County in instances where shallow bedrock, water courses, or other elements of natural landscape interfere with the ability of bury lines, distance makes undergrounding infeasible or best practice at the discretion of the Plan Director and Board of Zoning Appeals.
3. Lighting of the BESS/ESS shall be limited to that minimally required for safety and operational purposes and shall be shielded and downcast so as to minimize light pollution on adjacent parcels.
4. Areas within twenty (20) feet on each side of a BESS/ESS, outside of fence lines, shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery or other similar types of vegetation shall be exempted, provided that they DO NOT form a means of readily transmitting fire.
5. Deforestation shall be minimized and approved by the BESS/ESS TRC.

E. Security

1. Fencing
    a. All BESS's/ESS's must provide security fencing around the BESS/ESS Compound.
    b. Said fencing must provide limited and secured access to prevent entry by unauthorized personnel.
    c. Fencing and access gates shall be eight (8) feet tall as measured from the average grade below the fence to the tallest point of the fence.
    d. Razor wire is prohibited on all fences.

2. Signage
    a. "No Trespassing" signs shall be attached to any perimeter fence.
    b. "Danger" and "High voltage" signs shall be posted at the height of five (5) feet on or near the entrance to the site, pad-mounted transformers, substations, and Dedicated-Use Buildings.
    c. At the locked entrance to the facility, a sign showing the names and phone numbers of the electric utility provider, the site operator and an emergency contact, as well as the facility's 911 address and GPS coordinates shall be provided. Additionally, a sign should be posted containing the name and phone number of a person for the operating company.
3. Cameras
    a. Cameras will provide visibility of all property lines of the site, as well as, all visibility between all battery storage units and buildings onsite.
4. Noise
    a. Noise generated from the BESS/ESS, components and associated ancillary equipment shall not exceed limits of over 40 dba at the property line(s) of the site.
5. Electrical Components
   All electrical components of the BESS/ESS shall conform to applicable local, state, and national codes, and relevant national and international standards (ANSI, NEC, International Electrical Commission, Etc.)
6. EMF/ELF study will be conducted upon initialization of a BESS/ESS at all boundaries and at all adjacent residences and/or businesses to

establish a baseline emittance. Annual verification will be submitted with annual report.

BESS/ESS should be designed to minimize all EMF/ELF impacts beyond the property lines of the site. Shielding and/or relocation of EMF/ELF sources shall be implemented to reduce results over the limits allowed.

7. Access to Water for Emergency Response
   At least two water sources capable of providing 2,000gpm (Gallons Per Minute) are required for all BESS/ESS Tier II and above. This can be any combination of: well, municipal, supply, body of water.

   Both the source and/or pump(s) used must be certified capable of 2,000 gpm. Pumps will be tested annually; wells certified every 3 years.

   Any use of a body of water must be permitted through the proper authority. Any access easements to the source must be obtained by the parent company of the BESS/ESS.

   Should a fire prevention event occur and deplete the source of water to the extent that it impacts other property owners usage of the same source, as determined by (????)

   Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

VI. SETBACKS

A. BESS/ESS shall meet the minimum zoning setbacks for the zoning district in which located.
B. All components must be set back five hundred (500) feet from the nearest edge of any adjacent properties.

VII. OPERATION

A. Maintenance/Inspection

1. The Owner or Operator of the BESS/ESS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests.

2. Any physical modification to the BESS/ESS that alters the mechanical load, mechanical load path, or major electrical components shall require recertification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with the Planning Department to determine whether the physical modification requires recertification in conformance with IC 22-14-8-4.
3. The Marshall County Commissioner staff, along with licensed third party professionals retained by the County for the specific purpose of conducting inspections of the BESS/ESS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner operator, or his agent, on the premises where a BESS/ESS has been constructed, to inspect all parts of said BESS/ESS installation and to require that repairs or alterations be made. The owner or operator of a BESS/ESS may retain a licensed 3rd party professional engineer, at their expense, familiar with BESS/ESS systems to prepare and submit to the Marshall County Planning Department a written report which addresses the repairs or alterations required, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alternations are unnecessary, within thirty (30) days after receiving notice from the Marshall County Planning Department will consider any such written report and determine whether the repairs or alternations should be made as originally requested or as suggested in the written report. In the event of a dispute between the Marshall County Planning Department staff and the owner or operator, or a 3rd party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Planning Department shall be final.
4. The owner or operator of any BESS/ESS shall maintain a current general liability policy covering pollution, bodily injury and property damage and naming Marshall County as an additional insured with dollar amount limits per occurrence in the aggregate, and a deductible which is suitable to the County Commissioners. Proof of such insurance shall be provided annually to the Marshall County surveyor and Auditor.

B. Road Use

5. Any necessary, temporary closures and proposed detours shall be made known to the Highway Department and the County Emergency Management Agency at least twenty-four (24) hours prior to the temporary closure or as otherwise agreed.
6. The Road Use Agreement shall:
    a. Provide for a pre-construction and/or pre-maintenance baseline survey to determine existing road conditions and right of way conditions and assess for potential future damage;
    b. Identify necessary heavy and oversized equipment and materials that may use the road which may in certain cases be in excess of the design limits of the roads;
    c. Identify and modifications or improvements needed to permit such equipment and materials to use such roads;
    d. Outline exact route road intended for construction or maintenance upon use;
    e. If any route other than the aggreed upon route are used an immediate stop order will be issued by a commissioner;
    f. Detail the maintenance responsibility and method of reimbursement;
    g. Outline expectations of the County when road reconstruction is needed;
    h. Outline the time schedule including any and all provisions during seasonal road postings;
    i. Provide for financial assurance in the form of sufficient cash escrow to be held by the County Treasurer's Office for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the BESS/ESS and its included equipment; and the account balance will be maintained for the life of the project;
    j. An escrow established in the amount agreed upon by the applicant and County Commissioner and County Council. The escrow will be used for any road repair, agricultural repair,
    k. Identify any special issues which may affect the public health, safety and welfare.
7. The BESS/ESS operator or owner shall sign an affidavit indicating they will compensate Marshall County for any and all damage to public roads caused by BESS/ESS construction vehicles or traffic.

C. Agricultural Damage Repair

All damage to waterways, drainage ditches, field tiles or any other infrastructures caused by the construction, maintenance or decommissioning of the BESS/ESS must be completely repaired by the Owner or Site Operator to an acceptable state within a reasonable amount of time determined by the property owner. These damages may be repaired by the county and paid for from the escrow fund. The escrow shall be maintained at determined dollar amount throughout the life of the project.

D. Materials Handling, Storage and Disposal

1. All solid waste related to the construction, operation and maintenance of BESS/ESS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

2. All hazardous materials or waste related to the construction, operation, and maintenance of the BESS/ESS shall be handled, stored, transported and disposed of in accordance with all applicable local, state, and federal laws.

E. Coordination with Emergency Responders

1. The Owner shall submit to the local emergency responders a copy of the site plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), for the BESS/ESS so that local fire protection, law enforcement, district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each BESS/ESS site may evaluate and coordinate their emergency response plans with the Owner.
2. As per IN HEA 1173/2023 the Owner, at its expense, shall provide annual training for, and the necessary/specialized equipment to, the Operator and local emergency response at the BESS/ESS facility. In the event any specialized equipment or materials are used or expired, Owner shall replace such equipment and materials at its expense. Such equipment and materials shall be donated to local emergency response agencies at no cost to the County or other local government agencies.
3. In the event of a response for prevention, cleanup, containment or abatement of an actual potential fire, spill, and/or release of hazardous materials, the Owner and/or Operator of the site shall pay for all costs and expenses incurred as a result of such response including, but not limited to, actual labor costs of the response organization and/or emergency management personnel involved in the response thereto for the prevention, mitigation, containment, cleanup or abatement of the actual or potential discharge of hazardous materials, cost of equipment operation, damage and loss, cost of materials obtained directly by the

response organization and the cost of any contract labor and material incurred by any governmental body or emergency response agency.

4. The Owner and Operator shall cooperate with all local emergency responders to develop a site specific Emergency Response Plan. The Plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Owner and the Operator and at least two (2) designated BESS/ESS representatives (a primary and an alternate who are always on call). Any change in the designated BESS/ESS representative or his/her contact information shall be promptly communicated to the County. The content of the Emergency Response Plan shall be reviewed and updated on an annual basis.
5. Nothing in this section shall alleviate the need to comply with all other applicable safety, fire, and emergency laws and regulations.

F. Distribution and Transmission Agreements

1. Transmission plans through all utilities and transmission providers showing routing of power.

2. Agreements with all users of access for provision of and retrieval of power into and out of the BESS/ESS.

3. Percentage of Capacity dedicated to local utility for County Residents.

VIII. DECOMMISSIONING PLAN

Prior to receiving siting approval under this Ordinance, the County and the Applicant, Owner, and/or Operator must formulate two (2) Decommissioning Plans to ensure that the BESS/ESS project is properly decommissioned. The Decommissioning Plans shall include:

A. Decommissioning of the BESS/ESS site must occur in the event it is not in use for three (3) consecutive months.
B. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of a building permit, the Applicant shall provide a contractor cost estimate for demolition and removal of BESS/ESS facility and will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit, or

other security acceptable to the County, for the cost of decommissioning each BESS/ESS to be constructed under that building permit, which security shall be released when such BESS/ESS is properly decommissioned as determined by the Marshall County Planning Department.

1. In the event of abandonment by the owner or operator, the Applicant will provide an affidavit to the Marshall County Plan Department representing that all easements shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within three (3) months of expiration or earlier termination of the project.
2. Every five (5) years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Marshall County Commissioners for review.
3. If the owner fails to dismantle and/or remove the BESS/ESS within the established timeframes , the County may complete the decommissioning at the owner's expense.

C. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.

D. Prior to Implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed sixty (60) days, for the good faith negotiations to resolve the alleged default(s).

E. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern.

IX. TRANSFER

The Applicant shall provide written notification to the Zoning Director at least thirty (30) days prior to any change in ownership of a BESS/ESS. The phrase "change in ownership Battery Energy Storage System/Energy Storage System" includes any kind of assignment, sale, lease, transfer or other conveyance of ownership or operating control of the Applicant, the BESS/ESS or any portion thereof. The Applicant or successors-in-interest or assignees, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the Conditional Use Permit. The provisions of this Ordinance and applicable County, State and Federal laws. Any modification of a BESS/ESS that alters or changes the essential character granted, shall require a new Conditional Use Permit. The Applicant or authorized representative shall apply for an amended Permit prior to any modification of the BESS/ESS.

X. PENALTY

Any person, persona, firms, partnerships or corporations, whether acting alone or in conjunction with any other, who violates this Ordinance shall be subject to a fine of $2,500.00 per day, each day the violation occurs, until such violation is corrected.

XI. SEVERABILITY

Should any section or provision of this Ordinance be declared to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

XII. EFFECTIVE DATE

This Ordinance shall be in effect after its final passage, approval and publication as required by law. Requirements of this ordinance may be waived by the Marshall County Board of Zoning Appeals upon application and after public hearings.

Discussion:

- Pg. 9 Under water withdrawal that goes over a certain amount should be DNR not IDEM
- Pg. 13 (2) should there be separate decommission plans? Should there being something in there that defines the plans?
- Pg. 13 Training of fire departments before the project is started.
- Page 4 capacity => 1 kw questioned the units. Kw would be the measurement for more personal use - Mgw would be the measurement for larger scale. There will not be limits on the amount of units, but there will be limits on setbacks and distance between.
- Page 6 The drainage board does not approve any drainage plans. Suggest conformance to storage water drainage ordinance.
- Page 8 Will there be restrictions on fencing? Open chain link was preferred to allow view.
- Page 9 (6) EMF & ELF should they be in definition page? Will there be compensation if there is a fire and neighbors have to be evacuated?
- Page 6 Escrow – Is it all left to the Commissioner's & Counsel? Parent company signing application for permits?
- Setbacks – Property lines?
- Page 11 Stop work order – Is it stopping the whole project? Needs clarified.
- Decommissioning and amounts – Add 30% for inflation. Replenishing funds?

Bill Woodward – 12094 Peach Rd. Are there projects currently being considered? Is this going to use our water?

- Discussion of there being plenty of water.

Other Business

2026 Proposed PC Meeting Schedule/2026 Proposed TRC Meeting Schedule

Ms. Slonaker made a motion to approve the proposed 2026 Plan Commission & TRC Meeting Schedules as proposed, seconded by Mr. Calhoun. Motion carried by acclamation.

There being no further business, a motion was made to adjourn and seconded.

Respectfully submitted.

Craig Cultice,
Secretary