January 24, 2019
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 7:30 p.m. on Tuesday, January 24, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Craig Cultice, Stan Klotz, Rance Glingle, James Berger, Jack Roose, Dan Voreis, Bob Yoder and Dave Hostetler. Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Member absent was Terri Barnhart.

The first item of business was the review of the minutes from the December 20, 2018, meeting. **Mrs. Cultice moved and Mr. Berger seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was the 2019 election of President of the Marshall County Plan Commission. **Mr. Berger made a motion to retain Mr. Klotz as President, seconded by Mr. Miller. Motion carried by acclamation.**

The third item of business was the 2019 election of Vice-President of the Marshall County Plan Commission. **Mr. Klotz moved to nominate Mr. Berger as Vice - President, seconded by Mr. Miller. Motion carried by acclamation.**

The fourth item of business was the 2019 election of Secretary of the Marshall County Plan Commission. **Mr. Klotz made a motion to retain Mr. Yoder as the Secretary, seconded by Mr. Roose. Motion carried by acclamation.**

The fifth item of business was the 2019 election of TRC members of the Marshall County Plan Commission. **Mr. Klotz made a motion to nominate Ms. Barnhart and Mr. Roose as TRC members, seconded by Mr. Miller. Motion carried by acclamation.**

The sixth item of business was the 2019 election of alternates of the Marshall County Board of Zoning Appeals. **Mr. Klotz made a motion to nominate Mr. David Hostetler and Mr. Yoder as BZA alternates, seconded by Mr. Hostetler. Motion carried by acclamation.**

The seventh item of business was the 2019 election of liaison to the Plymouth Plan Commission. **Mr. Klotz nominated himself to be the Plymouth Plan Commission Liaison,**

seconded by Mr. Yoder. Motion carried by acclamation.

The eighth item of business was to re-instate Lukenbill & Lukenbill as attorney for the Marshall County Plan Commission. **Mr. Hostetler made a motion to retain Lukenbill & Lukenbill as attorney for the Marshall County Plan Commission, seconded by Mr. Yoder. Motion carried by acclamation.**

The ninth item of business was 19-PC-01 AYR Cabinet Co Inc - A primary/secondary approval of Jamie Corporation Minor Subdivision, a one (1) lot subdivision that will combine parcels 505432000070000005,505432000053000005,505432000012000005, 505432000011000005, and part of parcel 505432000004000005 to create one lot of 4.95 acres, located at 1074 US 6, Nappanee, IN Zoned C-2. Mr. Terry Lang of Lang Feeney represented the applicant. Mr. Adley presented the findings of fact.

The Subdivision Ordinance requires that subdivisions within the Commercial zoning designation be brought before the Plan Commission for review and approval. The parcel that is being subdivided is approximately 1.00 acres and the residual after combination will total 4.95 acres.

Due to a couple clerical errors the revisions will need to take place before printing a final draft of the plat. A list of items will be provided to the surveyor.

Mr. Cultice asked what the sliver on the east property line was for. Mr. Lang stated that the original parcel was surveyed by Plymouth Land & Survey and it looked like it was created to provide access to that side of the building.

Mr. Cultice made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being no one to speak for or against Mr. Cultice moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Yoder made a motion to approve 19-PC-01 AYR Cabinet Co Inc - A primary/secondary approval of Jamie Corporation Minor Subdivision, a one (1) lot subdivision that will combine parcels 505432000070000005,505432000053000005,505432000012000005, 505432000011000005, and part of parcel 505432000004000005 to create one lot of 4.95 acres, located at 1074 US 6, Nappanee, IN Zoned C-2, seconded by Mr. Miller. Motion carried with a voice vote 8-0.

The tenth item of business was 19-PC-02 FRAZIER, Greg & Sara - A request to vacate a portion of the alley to the west of their property and to vacate a portion of the road to the south of property to allow for septic repair; located at 849 Queen Rd., Walkerton, IN Zoned T-1. ***The applicant requested the case be deferred until the February meeting.***

The eleventh item of business was 19-PC-03 BURR OAK RESOURCE DEVELOPMENT - A request for a zoning change from A-1 to I2 to match the historic use of the property and for owner's excavation business activities which include underground pipe, demolition, and site prep activities; located on parcel # 502104000070000013, Union Twsp., Zoned A-1. Mr. George

Hopple was present to represent his request. Mr. Adley presented the findings of fact.

The property sits back off the road down an approximate 1,200' one lane driveway. Mr. Hopple owns a second piece of property that is located within the two-mile jurisdiction of Culver and is under a violation of the Zoning Ordinance where the Town has taken code enforcement action. Mr. Hopple is seeking to relocate his excavation and material recovery business completely to the subject property. He intends to use the property for the crushing of concrete, asphalt, shingles, turning of yard waste into usable material. His proposed use will have to be approved by the Board of Zoning Appeals and will be subject to any and all conditions placed on the operations by the Board. Mr. Hopple indicates that the property was previously mined for rock for the rail beds and was later used as a dump trash facility.

Mr. Hopple stated that he recycles material. Concrete requires a substantial quantity to be collected before someone will come in and crush the material. At the site there is a grinder that can grind yard waste and asphalt shingles. The Culver site has been a running business since 1959. Mr. Hopple is attempting to clean up the property and move the recycling business to the said Union Road property.

Mr. Hostetler asked if this property was the Burr Oak Landfill and Mr. Hopple said yes. Not all the property was used for the landfill. The purpose for the question was to understand the potential future uses for that property.

Mr. Hopple hopes that recycling use on the property would be viewed positive. Also, with the land being taxed as unusable it seems that recycling would be a viable use.

Mr. Voreis asked Mr. Hopple how he knows the shingles don't have asbestos. Mr. Hopple stated that they are tested for asbestos. It was Mr. Hopple's opinion that its pretty rare shingles have asbestos in them.

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

1. James Irwin – 126 Charles St., Plymouth, IN 46563 – Been a friend of the family for years and speaks in favor of the request.
2. Marty Oosterban – 504 E. Washington St., Culver, IN 46506- Serves on the Culver Plan Commission. Have been working with Mr. Hopple and are beyond frustrated in working with Mr. Hopple to clean up his property. It is an eyesore and is well out of compliance. It's been 14 months and still are not very far along. Currently looking at options to clean it up and bring into compliance. Doesn't know the intentions of this property, but imagines that it won't be any different. This is talked about regularly at the Plan Commission meetings and believes that all share the same sentiments.
3. Bruce McClain – Attorney in Marion Indiana 312 S. Washington St., Marion, IN 46952 – Represents an estate for Violet Overmyer. With regard to his clients request he feels it should be left as a wildlife preserve. With the manufacturing and dust, it will definitely affect the environment of the area. With what's been described its his belief it will be an eyesore. Also, with the zoning change it will allow anyone whether the

applicant or next owners to build or run a business of anything that's specifically listed in the allowed uses in that zone type. The ordinance also states that heavily industrial uses should be heavily buffered of adjacent uses and in general should be separated substantially from residential. Agrees with the recommendation of denial for this type of re-zoning.

4. Chuck DeWitt – Culver Building Commissioner – The Town of Culver has been working to remediate Mr. Hopple's property in the Town of Culver's jurisdiction for 14 months or longer. In response to Mr. Hopple's comment that his use on his property in Culver is grandfathered in; Mr. DeWitt commented that his property would be grandfathered like any other home business would be. Not to be used for crushing, grinding or any other such similar use. With the most recent history it's believed that Mr. Hopple doesn't have the ability to clean the property. His option is to move it to somewhere where no one can see it. There have been reports from the neighborhood for example: at 11:30 pm on Saturday night with the crusher going and this has been within the last couple of weeks. The Town of Culver has asked for receivership of the property. The plan will be to come in and take what's on the property and dispose of it and use that money to clean up the rest of it. There are 14 semi-trailers on that property and 6 pay loaders with no wheels and no motors. There are a limited amount of companies to take the heavy equipment, but we have found some that will. Also, there has been discussion with other companies to take the smaller items such as the tires. There are over 250 tires in piles on the Culver property. When Mr. Hopple's father ran the business, he ran it as a home-based business. He parked the equipment at the property and then took it out during the daytime for work and then brought it back in the evening. That is the definition of a home-based business. The board is working with the town's attorney to move forward. It's Mr. DeWitt's opinion that moving the junk from the 17th and Tamarack property to Burr Oak is going to do anything for the county other than just have another area of junk piled. If Mr. Hopple continues to run equipment late at night at the proposed new location the Town of Burr Oak will be just as upset as the surrounding neighborhood now. The shingles that have been brought on the property, they are supposed to be documented and tested to make sure there is no asbestos in them. Currently it is an illegal business. Doesn't believe it is in the best interest of the county to relocate said business. The Town of Culver's recommendation is that the county not look at this in a favorable manner.

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

Mr. Hopple rebutted the statement that the grinding machine wasn't being run that late. He has run it close to dark time though.

Mr. Hopple wants to be able to clean the property up in town. The town views everything on the property as junk. The recycling items haven't been removed in a timely manner due to the passing of his father. It was his hope not to recycle, but sell it off as scrap. Agrees that there is a pending situation with the Town of Culver.

Mr. Klotz asked if Mr. Hopple was made aware of his options. Mr. Adley commented that he was made aware of what was available. After the fact Mr. Hopple felt it was a misunderstanding. Originally was given advice by a commissioner to change the zoning and at that time he felt it was good advice. Now he sees the variance made more sense.

Mr. Hopple and Mr. Adley have talked about putting together a proposal that would need to be applied for by the 29th of January to appear at the February meeting. Either way approving the zone change would require a special use as his request is a recovery facility and if he would rather go with a variance only, that would require a variance of use.

Mr. Hopple asked the board if they see that going through a variance of use would be more practical than a zoning change. Mr. Klotz stated yes it would with his pasty history.

Mr. Yoder questioned what on the current property could the new variance of use be allowed to the new site? Mr. Adley commented that by going through the Variance of Use process the board can attach certain conditions to it as well as Mr. Hopple bringing forth certain requests.

Mr. Roose asked how many acres are in the parcel and how much of it was a landfill. Mr. Hopple stated that it is 42 acres and 18 acres were one point a landfill. Mr. Hostetler delivered to that site at one time and believes the landfill area to be much larger than 18 acres. Mr. Roose questioned whether that landfill area could be built upon. Mr. Adley stated that would require many different engineering standards and he couldn't really speculate to that question.

Previous to Mr. Hopple owning the property he stated that this landfill portion was split off the whole parcel due to the landfill's liabilities.

Mr. Voreis asked if there was contaminates on the property from previous owners would he be responsible. Ms. Stinson, the Health Department Administrator commented that is a legal question.

Mr. Adley reminded the board that tonight's discussion is to recommend or deny a request to change zoning not the use of the property.

Mr. Cultice commented that his fear would be if this request is granted it would turn a now Culver problem into a Marshall County problem.

Mr. Yoder asked if this was Mr. Hopple's livelihood? He responded this is his only source of income. Between excavating, scrapping, and plowing snow these are his income avenues. At one time there were around 5 employees, but due to family illness he scaled back to recycling and small amount of excavating and snow plowing.

Mr. Yoder stated that this is a perfect use of the property, but believes allowing the Board of Zoning Appeals to add restrictions under a Variance of Use would be the best option. Therefore **Mr. Yoder made a motion to make a recommendation of denial to the Marshall**

County Commissioners <u>19-PC-03 BURR OAK RESOURCE DEVELOPMENT -</u> A request for a zoning change from A-1 to I2 to match the historic use of the property and for owner's excavation business activities which include underground pipe, demolition, and site prep activities; located on parcel # 502104000070000013, Union Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried 8-0 to deny as it does not meet Findings of Fact 1.) Marshall County Comprehensive Plan and any other applicable, adopted planning studies or reports.

<u>Hutchison Violation</u>

Mr. Thomas Hutchison was present for a discussion on the violation at his property 17688 Vine St., Tyner, Indiana. Mr. Adley presented pictures to the board comparing pictures from one month ago to today.

Mr. Yoder commended Mr. Hutchison for the progress made yet sees material that yet needs removed. Believes an additional 3 months would be sufficient time to have the property completely cleaned up.

New member, Jack Roose, asked the time frame Mr. Hutchison's been given to clean up his property. Mr. Adley stated that the Court required the property to be cleaned up by the end of June, 2018. With some work done additional time was given. Due to insufficient clean up the property clean up was put out to bid three different times. The final bid a successful bid was received. On that date the commission elected to give Mr. Hutchsion an additional 30 days to have the property cleaned up. Today was his 30-day extension period. Mr. Adley believes there was a significant change within the one-month time frame. Mr. Roose stated the pictures reflect quite a bit of improvement since the last meeting.

Mr. Hostetler asked if he were given an additional couple of months if the property could be completely cleaned up. Mr. Hutchsion said that he hopes to have it done within a couple of weeks.

Mr. Miller's concern is that multiple extensions have already been given and if it would have been done right away, we wouldn't be here. Questions if more time is given if it will really be fully cleaned up.

Mr. Hutchison commented that the flooding and him not being able to live on the property has been a big hinderance.

Mr. Cultice read the motion from the last meeting so it's the boards decision how they wish to proceed from here.

> ***Mr. Delp made a motion to extend clean up time until the next meeting and the Plan Director will visit the property right before the meeting to bring the board up to date and if the cleanup is not satisfactorily cleaned up by that date the bid that was opened tonight will immediately be activated, seconded by Mr. Yoder. Motion carried 7-2 with Mr. Voreis and Mr. Klotz voting against.***

Mr. Klotz briefly re-stated Mr. Miller's comment that if all this would have been cleaned up when asked to, we wouldn't be here. While there was a lot of flooding in the spring there

were many months before that nothing happened. The concern is with additional days given people will automatically think they can get away with more. Doesn't want to see this happen with this case.

Mr. Yoder commented that it would be unfair for him to have to bear the cost of the full bid when he has cleaned up the property.

Mr. Klotz commented if we give him an extra 30 days will it get done? Mr. Hutchison said that he is now living their full time, has better equipment to handle things, and with the upgraded driveway doesn't see a problem with it getting done. He has no funds to allocate paying for the cost of someone to come and clean it up.

The board asked since the number of items has been drastically reduced if the bidder could re-bid the project. Mr. Adley stated that the bidder would only charge what it takes to clean up the property whether it's 3 tractors or 300 tractors. There would be an initial start up cost with relational cost of cleanup. This has already been discussed with bidder and he is in agreement with this process. But it wouldn't be re-bid again. Unless the commission requests the bid to be closed and re-bid again. Mr. Klotz doesn't believe we should re-bid right away.

Mr. Yoder made a motion to allow Mr. Hutchison until April 15th, 2019 for cleanup, and if there are significant items left on the property it will be turned over to the bidder for cleanup, seconded by Mr. Yoder. Motion carried by acclamation.

Fencing Discussion/Campground

During discussions with the board's attorney it was decided that the best course of action for Mr. Berg/Campground Owner to apply for a Variance of Use which allows a specific use for the property. Then also to apply for a Variance of Development Standard to allow for a reduction in developmental standards. This will allow the request to be heard by the Board of Zoning Appeals and have public input. The cases are planned to be heard at the February, 2019 meeting.

All septic concerns are dealt with the Health Department and the State Board of Health.

Fencing Standards

Mr. Adley presented to the board fencing regulations in the surrounding counties. One difference in standards that Marshall County does not have is the clear vision triangle. This would be a safety feature allowing for better visibility. After a discussing the board requested that Mr. Adley bring back his proposal to the board in a form of public hearing in February 2019.

Site Survey Requirements when applying for variance

When property owner's request to build closer to their property lines the ordinance requires that they go to the Board of Zoning Appeals to request a variance from the requirements. Many times, their request comes into play because of a small lot. When

asked their request and if they know where their property line is many do not know the exact location of their property line. It's usually left up to guessing which can cause errors that not only affect that property owner, but possibly the adjacent property owner.

Mr. Adley commented that at this time, we have very little in our ordinance to hold the property owner accountable. It was Mr. Adley's request to pursue our options in effort to assist the board in making better sound decisions.

- Ms. Tiffany Bohm – Marshall County property owner. Due to a previous owner not following the requirements as set forth she is now involved in a dispute with the adjacent owner. Believes that this requirement could have prevented their situation. Completely in support of this proposal.

After discussion the board requested that Mr. Adley meet with the board's attorney to have him assist in coming up with the correct wording for this site survey requirement. Then to bring back to the board for a public hearing.

New Office Employees

Mr. Adley informed the board that a Part Time Building Inspector has been hired for the Building Department. To better utilize funds that were appropriated the Plan Commission also hired the same person as a Code Enforcement Officer. Mr. Rob Hurford was hired for both positions.

A Part Time Clerical Position has also been created. This position is to assist with office duties. Ms. Teena was hired for this position.

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

Respectfully submitted

Bob Yoder

February 28, 2019
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 8:00 p.m. on Tuesday, February 28, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Craig Cultice, Stan Klotz, Dan Voreis, Bob Yoder, Terri Barnhart and Dave Hostetler. Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Members absent were Mr. Berger, Mr. Miller, and Mr. Roose.

The first item of business was the review of the minutes from the January 24, 2019, meeting. **Mr. Hostetler moved and Mr. Cultice seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-02 FRAZIER, Greg & Sara – A request to vacate a portion of the alley to the west of their property and vacate a portion of the ROW to the south of property to allow for septic repair; located at 849 Queen Rd., Walkerton, IN Zoned T-1. Mr. & Mrs. Greg and Sara Frazier were present to represent their request. Mr. Adley presented the findings of fact.

The subject property is approximately 7,200 square feet (.17 ac) and currently has a failed septic system. The applicant is seeking relief in the form of a vacation of a platted alley and Right of Way (Polk Street). They are seeking to vacate their half of the alley which is approximately .007 acres as well as a 1,495 sq ft portion of Polk Street. Based on discussions with the Health Department, the Frazier's are in need of additional property in order to accommodate a new system.

Mr. Cultice doesn't have a concern with the alley, but has a concern with vacating 23' of a 60' street that drastically reduces the roadway.

Mr. Frazier commented that the surveyor was the one who came up with the 23' roadway vacation. The applicant's only need is to get the minimum of whatever is required by the Health Department.

Ms. Stinson from the Health Department stated that the Frazier's need to get as much land the board will give them. Even with the request the proposed system will have to encroach

on the existing system which is not optimal. There current yard is all septic system. The Health Department understands the proposed system will be a best judgment and will not meet code. The only system that will fit on this property is a new technology called Inline Sand System which has a smaller footprint than the typical systems.

This area in Teegarden has an incredibly high-water table that the Health Department is not even sure if they can adequately modify the system which may require other deviations from the code that will allow a pump assisted perimeter drain.

The Frazier's have lived at this residence for ten years and to date have not had any issues. The tank was pumped for the first time in the fall of 2018 when they listed the house for sale. They do have a sump pump that runs 24/7.

Mr. Yoder had a concern why the Plan Commission would want to allow a chunk taken out of an alley that is not used anymore and why not vacate the whole alley. Also, questioned whether the board should vacate the whole road portion. Mr. Cultice asked Ms. Stinson if the board allowed a vacation of the roadway which would be the complete length of the house, but shorten the width of the request. Ms. Stinson said the further portion of roadway will not be helpful as it's too far away from the system. Which is why they are making the request they did as it's the only option for them.

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

1. Joe Rodick – 837 Queen Rd. In Favor of the request.

There being no one else to speak for or against Mrs. Barnhart moved and Mr. Cultice seconded the motion to close the public hearing.

It was discussed whether the board could request to vacate the whole alley. Due to the legal advertisement, the board can only act on what was advertised. The board has the option to bring this back at a later date to vacate.

Mr. Hostetler made a motion to make a favorable recommendation to the Marshall County Commissioner's that <u>19-PC-02 FRAZIER, Greg & Sara –</u> A request to vacate a portion of the alley to the west of their property and vacate a portion of the ROW to the south of property to allow for septic repair; located at 849 Queen Rd., Walkerton, IN Zoned T-1, seconded by Mr. Voreis. Motion carried with a voice vote 6-0.

The third item of business was <u>19-PC-04 MARSHALL COUNTY PLAN COMMISSION –</u> Amend the Marshall County Ordinance, Article 6 Section 060, Fences, Hedges & Walls to add visibility requirements and setback requirements. Mr. Adley presented the findings of fact.

(All CAPS are edits) Fences, Hedges, Walls A. Permitted Fences, hedges, and walls are permitted in required yard setbacks. B. Fence Standards The following fence and wall standards apply: 1. Must present the non-structural face outward; 2. Are permitted up to the property line SO LONG AS THOUGH THE VISIBILITY REQUIREMENTS ARE MEET IN ARTICLE 6 SECTION 250 VISIBILITY STANDARDS;

C. Restricted Fences: Fences, hedges, and walls, except necessary retaining walls, are subject to the following restrictions in the front yard setback in T-1, Town Residential and the FRONT AND lakeside setback in L-1, Lake Residential Districts: 1. No fence, hedge, or wall may exceed three- and one-half feet in height; 2. A fence, hedge, or wall shall have at least 75% of its surface area open to permit visibility. 3. All side yard fences are limited to six (6) feet in height and must be of uniform color, and style construction materials. 4. FOR COMMERCIAL MULTI-PRIMARY STRUCTURE LOTS THE SIDE-YARD FENCE MAY BE EXTEND UP TO THE MEDIAN FOOT MARK BETWEEN AN ADJACENT SIDE YARD LIMIT AND THE LAKESIDE/FRONT SETBACKS. (SPECIAL USE REQUIRED) D. Swimming Pool Fences Swimming Pools, access to residential swimming pools shall be restricted by one (1) of the following means: 1. Walls or fencing not less than five (5) feet high and completely surrounding the pool and deck area. Doors and gates must be self-closing, latching, and capable of being locked. 2. Other means not less than five (5) feet high and deemed by the Zoning Administrator to be impenetrable and completely surrounding the pool and deck area when the pool is not in use.

Mr. Yoder doesn't believe there be many commercial structures on lake lots if any. It was his opinion if this request were to come in that it should go through a special use for review and approval.

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

1. Lori Howshaw – 16945 12th Rd. Plymouth – Believes the proposal is confusing and doesn't understand the possibility of neighboring 3' fence then a 6' fence then another 3' fence.

   Mr. Adley explained that will happen when the side yard fence can only be from the front foundation line to the rear foundation line. Unless all the houses are built at the exact same setback there will be varying fences from property to property.

   Mr. Adley presented a drawing which showed multiple lake properties and the different setbacks of the homes and where fencing lines would stop and start. A lengthy discussion was had by board and attendees.

   Ms. Hoshaw suggested there be an allowance for an interior fence at or near the house for privacy that doesn't require 75% opacity. Mr. Adley explained that in today's standards Ms. Hoshaw would have to go before the BZA to request a Variance of Developmental Standard if she wanted to build a 6' fence in her rear yard.

2. Joe Skelton – 3329 Lake Shore Dr., Bremen – Questioned the drawing and wanting to make sure lake views are not obstructed.

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

Mr. Yoder believes that under the current standards and commercial requests having to go to the BZA for approval he would suggest striking the section in the proposal on commercial.

Mr. Yoder made a motion to make a favorable recommendation to the Marshall County Commissioners **19-PC-04 MARSHALL COUNTY PLAN COMMISSION – Amend the**

Marshall County Ordinance, Article 6 Section 060, Fences, Hedges & Walls to add setback requirements, seconded by Mr. Cultice. Motion carried with a voice vote 6-0.

The fourth item of business was 19-PC-05 MARSHALL COUNTY PLAN COMMISSION – Amend the Marshall County Ordinance, Article 6 Section 6 Section 250 add a new section on Visibility Standards. Mr. Adley presented the findings of fact.

... Street, Alley and Driveway Intersection Visibility Requirements Corner Lot - All Districts -No fence, hedge, wall, sign or other structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2.5 feet and 8 feet above the established grade level of the intersecting streets or streets and alleys, in the area bounded by the property lines of such corner lots and a line joining points along said property lines 50 feet from the point of the intersection; except that the location of principal buildings, traffic control devices and public utility fixtures shall not be affected by this requirement. All Lots-All Districts - At the intersection of driveways, streets, sidewalks, or trails; no fence, hedge, wall, sign or other structure shall be erected, placed or allowed to grow in such a manner as to impede vision between a height of 2.5 feet and 8 feet above the established driveway grade level in the area bounded by the driveway, or sidewalk and lot lines and a line joining points along said lines 10 (is this sufficient) and (should this be larger for commercial and industrial lots or uses) feet from the point of intersection of such driveway, or sidewalk and lot lines.

Currently corners on a county road are 50'. You can't put anything in that 50' triangle each direction. As of now there is nothing in the ordinance about driveways, sidewalks and alleys. For safety in more dense areas there shouldn't be fences or hedges that could impede the vision.

Mr. Yoder asked how good are we at maintaining the 50' triangle opening today and how are we going to police this? Several commented that many farmers farm all the way out to the road.

Mr. Yoder also commented that he would like to see easements protected. When people put shrubs and fencing in the right of way it creates many difficulties.

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

1. Tiffany Bohm – Asked if this rule only affects roadways/intersections or will it include easements. Mr. Adley said that it will include driveways.

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

Mr. Adley asked the board to exempt mail boxes from the proposal.

After a lengthy conversation the board agreed that they need further explanation and examples of scenarios to be able to make a decision.

Mr. Yoder made a motion to table the request until March, 2019, seconded by Mrs. Barnhart. Motion carried by acclamation.

Marshall County Plan Commission
February 28, 2019

2018 Marshall County Plan Commission/Board of Zoning Appeals Year-end Report

In 2018 new construction in Marshall County decreased to 749 permits from the 2017 total of 815 permits. Total estimated value of construction increased to $ 68,416,914 in 2018 versus $53,172,823 in 2017. Even with the slight dip in number of permits the valuation of those permits has raised yet again by 28%.

In 2016 the income for permits, contractor registration and fees totaled $94,981 compared to last years $78,610.

There was a total of 49 Board of Zoning Appeals cases heard, 11 Plan Commission cases heard, and nine new cases added to the 25 active violation cases.

Other

Lori Howshaw – 16945 12th Rd. Plymouth – Recalls the Plan Commission meeting on December 6th and the ruling to have Mr. Berg's illegal fence down in 30 days. At the January hearing it was her understanding that a stop work order was issued to Mr. Berg, but doesn't understand nothing has been pursued when the board said the fence was to be taken down in 30 days. Mr. Adley commented that the Stop Work Order was issued for the fence. At that time Mr. Berg was asked to come in and discuss his options. After contacting our legal counsel, it was his recommendation to take no more action until the Board of Zoning Appeals hears the case. The case will be heard on March 12, 2019. Ms. Hoshaw didn't agree with legal counsels' advice. Mr. Adley re-iterated that on the 6th the board finalized the discussion with recommending Mr. Adley speak to the board's attorney.

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

Respectfully submitted

Bob Yoder

April 25, 2019
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 7:30 p.m. on Tuesday, April 25, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Terri Barnhart, James Berger, Craig Cultice, Matt Miller, Stan Klotz, Bob Yoder, and Dave Hostetler. Plan Director Ty Adley and interested parties. Members absent were Jack Roose and Dan Voreis.

The first item of business was the review of the minutes from the February 28, 2019, meeting. **Mr. Hostetler moved and Mr. Cultice seconded the motion to approve the minutes as amended. The motion passed by acclamation.**

The second item of business was 19-PC-06 COX, William Jr. - A request to change zoning from C-1 to T-1 to allow for residential use; located at: 106 S. Michigan St. Lapaz, IN North Twsp. 50-52-95-202-162-000-010, 50-52-95-202-166-000-010, 50-52-95-202-170-000-010, 50-52-95-202-174-000-010. Mr. William Cox was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to rezone C-1 property to T-1 zoned property for residential purposes. The adjacent area has a mix of Commercial and Residential property. Based on discussions with the Town of Lapaz, there seems to be some uncertainty to the proposed use of the property. One being a Private Club and the other being Multi-Family Residential. The proposed use and should be clarified for the Plan Commission.

The staff recommendation was as follows: Based on the information provided to staff, discussion during a Technical Review Committee Meeting and talks with the Town of Lapaz; staff will support the latest opinion of the town to recommend in favor of the rezoning. Though with that being said there has been confusion in the proposal presented by Mr. Cox to both staff and the Town of Lapaz. It is important to note that the Comprehensive Plan recommends the area to be C-1 Downtown Commercial.

Mr. Cox explained that he has cleaned up the property since the pictures were taken. The plan is to use the main area as a club house and would like to refurbish the upstairs for a single-family dwelling. The property has been vacant for at least ten years. He believes if someone wanted it for commercial use it would have been purchased before now. Allows some of the neighbors to use his parking place. The club house will be used by a group of individuals who drive motor cycles and raise money for people who need money.

Part of the reason for changing the zoning is to help reduce costs. For instance, gas is higher for a commercial use than residential use. Sometimes its 30-40% higher. Went to the Town of Lapaz earlier and was able to establish a lower sewer rate.

Mr. Cox's stated that the town's attorney called Mr. Adley and explained all of the details and didn't hear that there was a concern.

Some from the board commented that since the new bypass business has suffered in the town and believes the proposal of going residential could be a positive. Others stated that rezoning the whole block made more sense.

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

1. Anthony Wagoner- Attorney for the Town of Lapaz – 5413 3rd Rd., Bremen, IN – Mr. Cox came to the most recent Town Council meeting. He emailed the Plan Director and said the town didn't really see an issue. At that time he explained to the town that a motor cycle club would be using it along with the one rental unit. If the use is private the sewer department would probably charge like a church. The confusion was initially it was discussed that there would be apartments there. The town's sewer rates are based on the use not the zoning.
2. Jackie Haines - 210 S. Michigan, Lapaz. Buying house from Ms. Carol Westin. Has no problem with the request.

Mr. Hostetler moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

The board explained that this hearing is only a recommendation to the Marshall County Commissioners where they will make the final decision.

Mr. Yoder made a motion to give a positive recommendation to the Marshall County Commissioners <u>19-PC-06 COX, William Jr. -</u> A request to change zoning from C-1 to T-1 to allow for residential use; located at: 106 S. Michigan St. Lapaz, IN North Twsp. 50-52-95-202-162-000-010, 50-52-95-202-166-000-010, 50-52-95-202-170-000-010, 50-52-95-202-174-000-010, seconded by Mr. Berger. Motion carried with a voice vote 7-0.

The third item of business was <u>19-PC-05 MARSHALL COUNTY PLAN COMMISSION -</u> Amend the Marshall County Ordinance, Article 6 Section 250 add a new section on Visibility Standards.

... Street, Alley and Driveway Intersection Visibility Requirements Corner Lot - All Districts -No fence, hedge, wall, sign or other structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2.5 feet and 8 feet above the established grade level of the

intersecting streets or streets and alleys, in the area bounded by the property lines of such corner lots and a line joining points along said property lines 50 feet from the point of the intersection; except that the location of principal buildings, traffic control devices and public utility fixtures shall not be affected by this requirement. All Lots-All Districts - At the intersection of driveways, streets, sidewalks, or trails; no fence, hedge, wall, sign or other structure shall be erected, placed or allowed to grow in such a manner as to impede vision between a height of 2.5 feet and 8 feet above the established driveway grade level in the area bounded by the driveway, or sidewalk and lot lines and a line joining points along said lines 10 (is this sufficient) and (should this be larger for commercial and industrial lots or uses) feet from the point of intersection of such driveway, or sidewalk and lot lines.

Staff recommendation was as follows: Staff would recommend approval of the above creation of Article 6 Section 250 Visibility Standards.

Mr. Yoder commented that in his situation he would have to cut down four trees and because his house is on a hill, he as to creep down the hill to check for traffic. Cutting down trees wouldn't help his visibility at all. Much of the board had similar concerns.

Tiffany Bohm – 18558 10 B Rd. – Lives an 1/8 of a mile back on a deeded easement. How will this affect houses on a deeded easement? Would like the board to consider her situation and the need for the trees and their privacy.

Mr. Adley explained that his proposal was just that a proposal/draft for the board for them to review. This is a draft following what the Town of Culver adopted.

Mr. Yoder would be more inclined to discuss this option for areas within T-1 zoning as this proposal might be more beneficial for them.

Several members on the board commented that there is no sense to create a rule that cannot be enforced.

The biggest concern of the board seemed to be the right of way not being maintained and not knowing where the right of way is to administer a rule such as this.

Mr. Miller made a motion to deny the third item of business was 19-PC-05 MARSHALL COUNTY PLAN COMMISSION - Amend the Marshall County Ordinance, Article 6 Section 250 add a new section on Visibility Standards, seconded by Mr. Yoder. Motion carried by acclamation.

Marshall County Board of Zoning Appeals
April 25, 2019

Additional Alternates for BZA

Due to recent meetings of going through both alternates and still not having a full attendance. The Plan Commission Office would like the board to consider adding additional BZA alternates. Due to much of the board not being able to be part of the board there were only two members that would possibly be considered. Ms. Barnhart agreed to be an alternate to the alternate. **Mr. Miller made a motion to appoint Ms. Barnhart as an alternate to the alternate for the BZA, seconded by Mr. Berger. Motion carried by acclamation.**

Impervious Surface Coverage

There has been discussion between the County Surveyor as well as the Plan Director on how impervious surface area coverage is calculated to encompass not just the 4,000 square foot permit, but going beyond that. Currently when someone applies for a permit just under 4,000 square feet our ordinance doesn't allow us to include existing impervious surface area into the calculation. The board had mixed thoughts.

Currently reviews are done on a case by case basis. Each property is unique; therefore, they need to be handled differently. It's important that Plan Director receive some ideas and

feedback from the board to help narrow down what everyone wants. The ultimate goal behind this is to be able to slow down water.

The board asked that Mr. Adley come up with a couple of different concepts without going into too much detail before the board makes a decision to move forward with a public hearing.

Solar

The other ordinance the Plan Commission Office is proposing a discussion on are solar farms. Ones that cover several hundred acres when our ordinance stops at 40,000 sq ft. Our standards and fees don't cover this scale of installation.

Mr. Klotz asked that Mr. Adley come up with a few concepts without going into too much detail before the board makes a decision to move forward with a public hearing.

Recent and Upcoming Events

Recent:

Stellar Community – Marshall County has been designated as a finalist this year.
Complete Streets Policy- Working with MACOG
Water Task Force-Attended a couple meetings in terms of development interest
Regional Trail Branding-Process has been headed up by MACOG for the 4 county region due to Stellar and other safety's for the community.

Upcoming:

Stellar Workshop and Other Meetings
Community Development for the Future
TTAC

INDOT STIP Open House, Wednesday, May 8th, Laporte District

INDOT 2020-24 STIP

Notable Projects

1. US 30 Preventative Maintenance – US 30 Preventative Maintenance – SR 17 to SR 19 2020
2. US 30 Intersection Improvements – Queen, Pioneer, and King Rd. 2022/2023
3. US 30 Preventative Maintenance – SR 17 to Approx. SR 23, 2022
4. US 31 New Interchange – SR 10, 2022/2023

Marshall County Board of Zoning Appeals
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Quarterly Tracking

Permit count has increased by our busiest year as well as our valuations.

Violations

Soon there will be five cases going to court. This is largely in part because of having a Code Enforcement Officer. Without this position we wouldn't be this far along. There are more on the horizon. The process includes a warning letter and then a fine letter explaining the accruing fine of $50 per day until the property is cleaned up. If there is still no contact or refusal to clean up notice is sent to the board's attorney for further action.

Lori Howshaw – 16945 12th Rd. Plymouth – Was at the BZA meeting when the campground was approved as well as the fencing requirements. They turned the fence around by the date, but didn't meet the requirements as far as setbacks. As far as the campground itself they were required to move a camper and apply for permits if anything additional is built or brought into the property. They haven't moved the trailer and built on another deck to the trailer that was supposed to be moved. That was done two days ago. From what the state says it doesn't look like anything is being done their either. Requested a time frame as to how long they will have to meet compliance.

Mr. Adley stated that a letter has been sent to the Berg's regarding the setback issue with the fence that was stipulated in the variance. As far as the other information they will be looking into that with the information that was provided by Ms. Hoshaw.

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

Respectfully submitted

Bob Yoder

May 23, 2019
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 7:30 p.m. on Tuesday, May 23, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Terri Barnhart, James Berger, Craig Cultice, Matt Miller, Stan Klotz, Bob Yoder, Jack Roose and Dave Hostetler. Plan Director Ty Adley and interested parties. Member absent was Dan Voreis.

The first item of business was the review of the minutes from the April 25, 2019, meeting. **Mr. Hostetler moved and Mr. Miller seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-07 GOLUBSKI, Michael - A request for a Zoning Map change from L-1 to A-1 to allow for animals, located at: 4860 N. Underwood Rd., Walkerton, IN 46574, Zoned L-1. Mr. Michael Golubski was present to represent his request. Mr. Adley presented the findings.

The applicant is seeking to rezoning because he has only known the property to be zoned agriculture and has been using it as such until recently when he wanted to extend his fence. The property is adjacent on two sides by A-1 and is the furthest parcel from the lake. He indicates that he would like to keep his animals because currently it would be a violation. The Lawrence Pontius Ditch follows along the Southern property line.

The staff recommendation is as follows: Based on the information provided, context of the lot, and a favorable recommendation from the Technical Review Committee, Staff recommend approval of the proposed rezoning.

Back in 1989 the applicant understood the property to be agricultural and doesn't understand how or when it got rezoned. The only reason he knew it was changed to L-1 was because he came in to get a permit for a fence and was then told. At that time the Plan Commission office explained that his best course of action would be to apply to re-zone the property back to A-1.

The applicant's plan is to put up a fence to have some chickens and maybe a couple pigs.

Mr. Hochstetler confirmed that he travels that area regularly and always thought it was ag.

Mrs. Barnhart moved and Mr. Miller seconded the motion to open for public hearing. Motion carried by acclamation.

1. Unknown neighbor in the audience – Wanted to know what kind of animals he was having.
2. Dan Zemanek – 4945 N. Underwood Rd. – Wrote a letter and is in favor of the request. Has lived there for 6 years and has never had a problem with the applicant or how he keeps up his property.

Mr. Miller moved and Mr. Hochstetler seconded the motion to close the public hearing. Motion carried by acclamation.

The plan is to have small farm animals like chickens, pigs and/or sheep.

The unknown neighbor came to get more information on the request. He doesn't have a problem with what he was requesting. Wanted to make sure it wasn't a big facility.

Mr. Hochstetler made a motion to approve 19-PC-07 GOLUBSKI, Michael - A request for a Zoning Map change from L-1 to A-1 to allow for animals, located at: 4860 N. Underwood Rd., Walkerton, IN 46574, Zoned L-1 and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mr. Roose. Motion carried with a voice vote 8-0.

Other Business

Solar Regulations

Currently the largest solar permit is considered a large solar which is 40,000 sq ft which covers approximately one acre. We currently have some growth with upcoming large/commercial grade solar farms that cover several hundreds of acres. With that there is a difference in regulating a system that covers one acre to several hundred acres. Mr. Adley asked for some guidance on what specifically the board would like him to research.

Commercial Solar Energy System

1. Equipment Setback
2. Height Limit
3. Noise Limit
4. Landscape Buffer
5. Security
6. Decommissioning

Importance of Definitions

1. Use on Property (Primary/Accessory) vs. Production vs. Purpose

Advantages and Disadvantages of Solar Ordinances

Dimensional and Operational Standards

Marshall County Board of Zoning Appeals
May 23, 2019

Surface Area vs. Impervious Area.

Purpose/Why

TRC Initial Points

1. Drainage Board Approval
2. Decommissioning
3. Vegetation
4. Private Tiles
5. Bonds

When asked about the life span of a solar system Mr. Adley responded about a recent teleconference that was initiated by Macog. At that time, they indicated that the lifespan was 20 years at a 100% and after that it would only be reduced by 20%.

Mr. Yoder believes that the decommissioning and bonds will be very pertinent for the future.

Other neighboring counties are also in the process of reviewing solar farms or have tabled requests. Jasper County has approved solar farms, but they are still in the process that includes electric companies.

Mrs. Barnhart believes that Marshall County really needs to take a serious look at solar farms. If we already know that NIPSCO is going to take their coal plants off line. She doesn't want to be the county that says, "I don't want any progress to come in and businesses go." We need to be open minded.

Mr. Yoder has lived in an area where they had to reclaim property and it took several years to accrue the amount of money it took to decommission. He believes special attention on decommissioning and bonds is important.

Mr. Miller agreed on decommissioning and bonds, but also suggested private tiles.

Mr. Hochsetler agreed that going to Jasper County and getting hands on knowledge is a good idea.

Mr. Adley also stated that he will be researching other counties that have approved solar farms and how they are currently working.

The board requested information before a public hearing is scheduled.

Mr. Yoder explained to the board that when wind farms were being discussed the Plan Commission created a subset committee that included a commissioner to review in depth. Wondered what the rest of the board thought about doing that for solar farms.

Marshall County Board of Zoning Appeals
May 23, 2019

Impervious Surface Coverage

Current text:

1. Any construction which disturbs more than four thousand square feet of surface area must comply with the Marshall County Drainage and Sediment Control Ordinance.

Currently you can pull multiple separate permits for structures under 4,000 square feet and not need a drainage plan. There is no cumulative number assigned.

Mr. Adley asked the board when figuring this cumulative number does the board want it based on square footage or percentage?

Mr. Miller liked the idea of basing it cumulative from the date the ordinance takes effect.

This impervious surface coverage includes not only structures, but driveways too.

The board seemed to agree that the current 4,000 square feet is a fair figure to work with.

Violation Update

The Tolsen case in Argos has recently been cleaned up with a cost of approximately $3,000. Will be working with the attorney for collection.

Currently there are 8 cases at the attorney's office. One case is being filed at the courts and more to come.

Mr. Klotz asked when attorney's fees collection will take place. Mr. Adley said that it will most likely be at the end/during the court hearing. This has been addressed with the board's attorney.

Other

Mr. Klotz explained to the board that he and Mr. Adley discussed the permitting process. With new administration the review process of permitting approval has been more detailed than what they are used to. It was discussed that there be an informational packet available to help everyone know what's required to get a permit and what they can expect from the office.

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

Respectfully submitted

Marshall County Board of Zoning Appeals
May 23, 2019

Bob Yoder

July 2, 2019
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 7:30 p.m. on Tuesday, July 2, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members James Berger, Craig Cultice, Stan Klotz, Bob Yoder, Jack Roose, Dan Voreis, and Dave Hostetler. Plan Director Ty Adley and interested parties. Members absent were Terri Barnhart and Matt Miller.

The first item of business was the review of the minutes from the May 23, 2019, meeting. **Mr. Hostetler moved and Mr. Berger seconded the motion to approve the minutes as corrected. The motion passed by acclamation.**

The second item of business was 19-PC-08 EADS, Marc & Teresa - A request for a one lot Minor Subdivision approval for Marc & Teresa Eads located at 10448 and 10484 Pretty Lake Trail, Plymouth, IN West Twsp., Zoned L-1. Mr. & Mrs. Eads were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to purchase a portion of an adjacent lot and combine his total acreage together. The Subdivision Ordinance permits the administrative split and combination of Agricultural property, but due to the property being zoned Lake Residential, it requires the applicant to go through the Minor Platting process.

The recommendation of the Plan Director and Technical Review Committee is as follows: Based on the information provided Staff and TRC have no objection to the minor plat that will be in short adjusting the property line between two properties. Therefor staff and TRC recommend approval of the proposed plat.

When asked if the applicants had any comments, they expressed how important this is as they've not had a back yard before.

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

1. Mary Cullison – 10437 Pretty Lake Tr. Neighboring property owner is in favor of the request. They've been wonderful neighbors.

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

Mr. Berger made a motion to approve 19-PC-08 EADS, Marc & Teresa - A request for a one lot Minor Subdivision approval for Marc & Teresa Eads located at 10448 and 10484 Pretty Lake Trail, Plymouth, IN West Twsp., Zoned L-1 and pass to the Marshall County Commissioner's with a favorable recommendation, seconded by Mr. Roose. Motion carried with a voice vote 7-0.

2020 Proposed Plan Commission Budget

Based on the county council's recommendation the raise proposed was a flat rate. The raise rate proposed was a flat rate of $1,500 per full time employee. There is a proposal of re-designation of funds from the Board of Zoning Appeals to the Plan Commission to cover violation legal fees. The amount proposed is $4,000. For better record keeping the office would like to add a budget line item for training and move $500 of the funds from Travel/Mileage to training. The vehicle maintenance fund shows an increase of $500 at this time because we are still responsible to maintain our departments vehicles. With having an additional car for code enforcement/building inspections we felt the budget needed to reflect funding for maintenance of both vehicles.

Mr. Klotz questioned if the part time employees would also receive a raise or if the departments would have to adjust the hours worked. Mr. Roose wasn't sure at this time.

Mr. Yoder asked if the $500 for training will be enough. Mr. Adley feels that it should be enough to cover costs.

Mr. Yoder made a motion to approve the proposed budget for 2020, seconded by Mr. Berger. Motion carried by acclamation.

Solar Permit Discussions

We've been in discussions with Jasper County, New Castle County Delaware, Madison County and Starke County regarding their solar ordinances and/or upcoming solar ordinances. The items discussed were property line setbacks, height, buffer yards and decommissioning.

Some of the board's concerns are the drainage tiles, bonds, who administers them, what if they file bankruptcy, etc.

Mr. Adley proposed to the board that he will try to address the boards concerns and bring back a proposed ordinance possibly in July, but more than likely in August.

Plan Commission's Attorney Ken Lukenbill resigns after 35 years

Mr. Lukenbill resigned from his position as the Plan Commission's attorney. He thanked the board for the honor to serve as the board's attorney.

Mr. Hostetler made a motion to accept Mr. Lukenbill's resignation as the Marshall County Plan Commission's attorney, seconded by Mr. Yoder. Motion carried.

Impervious Surface Coverage

The current ordinance reads:

> *Any construction which disturbs more than four-thousand (4,000) square feet of surface area must comply with the Marshall County Drainage and Sediment Control Ordinance.*

The plan is to revise and establish when the impervious surface counts. It won't be per permit, but a cumulative effect. Rather than it being 4,000 per structure the proposal is once the ordinance is approved it will begin to accumulate the count and once it's over 4,000 sq ft a drainage plan will be required.

There's no plan to penalize those that already have significant coverage, but the date of approval of this proposed ordinance.

Mr. Cultice shared with the board what he's heard at the KRBC meetings. In the past it seems that the thought has been to get water off the farm ground, into the tiles, into the ditches, into the Yellow River and get it out of Marshall County as fast as you can. Listening to the people downstream and the studies they've done, they want us to hold the water back as long as we can. With these newer developments the plan is to put basins in to capture it, slow it up and release it slower to help the situations downstream. The flows of the river are increasing more so than the rainfall. They are contributing that to all hard surface area.

Other

TTAC – Recommended approval of a 30 million amendment to add US 31, from SR 10 to SR 110 "New Interchange/Intersection Improvement".

Brownfields Grant – MACOG region was awarded a $600K brownfield assessment coalition grant.

Floodplain Workshop – Went to a workshop in Shipshewana and received education and information based upon flood plain events and what our responsibilities are in what we can do to assist people moving forward with different types of developments.

Solarize Northern Indiana Initiative – "Going solar workshop" on July 30th, 2019 @ 6:30pm in Room 203.

Regional Complete Streets Policy – TTAC will be presenting next week a complete streets policy. It's mainly aimed at the urbanized area, but believes that Marshall County can benefit from this.

Violations – Currently we have 8 cases in the warning stage, 16 in the fine stage, 8 with the

attorney, 4 in court with a total of 36 cases. When asked if the new Code Enforcement Officer has received any resistance Mr. Adley commented that there has been a few. It's mostly people that are unaware there is an ordinance that they are violating.

Proposal of New Attorney

Mr. Roose made a motion to authorize the Plan Director, Ty Adley, to offer a proposal to Mr. Derek Jones to be the attorney for the Marshall County Plan Commission and Board of Zoning Appeals, seconded by Mr. Berger. Motion carried by acclamation.

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

Respectfully submitted

Bob Yoder

August 22, 2019
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 7:30 p.m. on Tuesday, August 22, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members James Berger, Craig Cultice, Stan Klotz, Bob Yoder, Jack Roose, Dan Voreis, Matt Miller and Terri Barnhart. Plan Director Ty Adley and interested parties. Member absent was Dave Hostetler.

The first item of business was the review of the minutes from the July 2nd, 2019, meeting. **Mr. Miller moved and Mr. Cultice seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-09 BENNINGHOFF, Frank & Kathryn -A request to Vacate Boyce St. south of Walnut Street between Lots 1 and 2 of Block 15 and Lots 7 and 8 of Block 16, in the Village of Tyner, Polk Township, Marshall County, Indiana. Frank & Katherine Benninghoff were present to represent their request. Mr. Adley presented the findings of fact.

Looking back into the history of the plat "Addition to Tyner City", we found that in 1989 the alleys for Block 10 were vacated as well as the North Easterly section of Boyce Street. In 1990, the alleys as well as the interior lot lines were vacated creating two singular lot blocks. The applicant is seeking to now vacate the South Westernly section of Boyce Street. Per the application the applicant is seeking to construct a pole barn within this space in the future. Based on the review of the Subdivision Ordinance, the process follows IC 36-7-3-10 through 16. Under IC 36-7-3-12 it is identified that the item be brought before legislative body. It has been in practice though to bring the item before the Planning Commission to review and then present he case to the County Commissioners.

Recommendation:
Based on the historical information, information provided under application and review by the Technical Review Committee which gave a favorable recommendation, Staff would recommend approval of the proposed vacation of platted right of way.

Currently there are 60-year-old trees in this area as it's not been used as a road in a very long time. In the future they would like build a garage in this location.

When asked if they are requesting the whole street or just half, they replied saying that they are requesting half and the other adjoining neighbors would receive the other half.

The applicants did speak with the adjoining neighbors and they verbally said that they didn't have

a problem. There has been no written communication received for this request.

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

1. Jeanann Carrington – 17646 Main St. Plymouth – Doesn't have a problem with their request to build a garage.

There being no one to speak for or against Mrs. Barnhart moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Roose made a motion to approve 19-PC-09 BENNINGHOFF, Frank & Kathryn -A request to Vacate Boyce St. south of Walnut Street between Lots 1 and 2 of Block 15 and Lots 7 and 8 of Block 16, in the Village of Tyner, Polk Township, Marshall County, Indiana and forward to the County Commissioner's with a favorable recommendation, seconded by Mr. Miller. Motion carried with a voice vote 8-0.

The third item of business was 19-PC-10 MARSHALL COUNTY PLAN COMMISSION - Delete ARTICLE 3 Section 150 Building on Contiguous Lots. This was an Amendment to the Marshall County Zoning Ordinance with Ordinance No. 2016-24 (11-7-2016).

In 2016 under 16-PC-13 the Plan Commission approved as a recommendation to the County Commissioners to pass the creation of the Building on Contiguous Lots Ordinance. There were a couple of options, one to create the now existing process, and another to revise the definition. The concern initially was that "we do not want them sold separately if a structure or a septic system is built across a property line." The ordinance currently reads "A. Contiguous Lots – 1. Any construction for any single-family residence or accessory building or septic systems upon any adjacent contiguous parcels owned by the same party must have a recorded Contiguous Lot Form recorded with the Marshall County Recorder's Office. The definition of a lot is currently "Lot – A contiguous area of land separated from the other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one (1) lot."

Recommendation:
Staff took the revision of the ordinance before the Technical Review Committee. The recommendation of the ordinance was favorable, but would like to get additional information before making a final recommendation to the Plan Commission. Therefore, the current recommendation is to Table the proposal for additional time and consideration with the remainder of the Plan Commission weigh in on the proposed ordinance revision. Staff would then recommend that the Plan Commission provide the necessary feedback in order to move the revision forward as well as to table the matter for any necessary additional information and bring the revision back before the Plan Commission at its next available meeting.

Mr. Miller made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation. There being no one to speak for or against Mrs. Barnhart moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Yoder made a motion to approve 19-PC-10 MARSHALL COUNTY PLAN COMMISSION - Delete ARTICLE 3 Section 150 Building on Contiguous Lots. This was an Amendment to the Marshall County Zoning Ordinance with Ordinance No. 2016-24 (11-7-2016) and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mrs. Barnhart. Motion carried with a voice vote 8-0.

The fourth item of business was 19-PC-11 MARSHALL COUNTY PLAN COMMISSION - Amend Article 13 Definitions of the Marshall County Zoning Ordinance to read - Lot Definition - A contiguous area of land separated from other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. The boundaries of the lot shall be determined by its lot lines.

In 2007 the Zoning Ordinance was amended and replaced in its entirety. Which by the best available information is when the definition of a lot was revised. The definition previously read "A tract or parcel of land of at least sufficient size to meet minimum zoning requirements for use and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a public street or a permanent easement of access, at least (20) feet wide, connecting to a public street." The current definition of a "Lot" is "A contiguous area of land separated from other areas of land by separate description for a purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one (1) lot." Under the Subdivision and Control Ordinance the definition of a "lot" is "A single recorded tract or plot, which is the smallest unit of a subdivision or another parcel of land. A lot serves as a unit for the purpose whether immediate or future, of transfer of ownership or lease." The proposed definition of a "Lot" is "A contiguous area of land separated from the other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. The boundaries of the lot shall be determined by its lot lines."

Recommendation:
Staff took the revision of the ordinance before the Technical Review Committee. The recommendation of the ordinance was favorable, but would like to get additional information before making a final recommendation to the Plan Commission. Therefore, the current recommendation is to table the proposal for additional time and consideration with the remainder of the Plan Commission weighing in on the proposed ordinance revision. Staff would then recommend that the Plan Commission provide the necessary feedback in order to move the revision forward as well as to table the matter for any unnecessary additional information and bring the revision back before the Plan Commission at its next available meeting.

Multiple definitions of a Lot from surrounding counties were read to the board. The proposed revision is as follows:

A contiguous area of land separated from other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. ~~*It may be a single parcel separately*~~

~~*described or a combination of such parcels when adjacent to one another and used as one (1) lot*~~. *** Add: The boundaries of the lot shall be determined by its lot lines.*

Alternative Proposed Revision

A piece, parcel, or tract of land designated by its owner or developer to be used, developed, or built upon as a unit under single or multiple ownership or control. The boundaries of a lot shall be determined by its lot lines.

If this revision is approved and someone wishes to build over the property line, they would be required to combine the lots legally before a permit is issued. If the parcels are in a subdivision and they are only removing the interior lot line a re-plat can be created and signed by the Plan Director administratively.

Mr. Cultice was in favor of the proposal.

Mrs. Barnhart made a motion to approve the Alternative Proposed Revision (as shown above) 19-PC-11 MARSHALL COUNTY PLAN COMMISSION - Amend Article 13 Definitions of the Marshall County Zoning Ordinance to read - Lot Definition and forward to the Marshall County Commissioner's with a favorable recommendation, seconded by Mr. Cultice. Motion carried with a voice vote 8-0.

Attorney contract with Derek Jones

The proposed attorney contract with Derek Jones and his firm was presented to the board for their review. Mrs. Barnhart made a motion to approve said contract, seconded by Mr. Roose. Motion carried by acclamation.

Public Comment - Robert Demis

Mr. Demis wanted to bring to the attention to the board that there is fiber optic infrastructure (electrical boxes) being placed in the right of way that is about five feet from the road. There is a concern with this electrical box being placed so close to the road. Mr. Adley stated that Highway Department does have to approve this infrastructure, but Mr. DeWitt, the Building Commissioner, also has to inspect and approve each infrastructure and notify each electric company. Mr. Adley will speak to Mr. DeWitt about Mr. Demis' concern.

Public Comment – Don Abbott

Mr. Abbott would like to rent out part of his property to someone who sells yard barns. He wanted clarification if the front yard setback pertains to this situation or if he can put the yard barns that are for sale up to the property line. The consensus of the board was that the yard barns are material not necessarily structures. The yard barns can be placed just outside the right of way.

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

Respectfully submitted

Bob Yoder

September 26, 2019
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 7:30 p.m. on Tuesday, September 26, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Terri Barnhart, James Berger, Craig Cultice, David Hostetler, Jack Roose, Dan Voreis, and Stan Klotz. Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Members absent were Mr. Miller and Mr. Yoder.

The first item of business was the review of the minutes from the May 23rd, 2019, meeting. **Mrs. Berger moved and Mr. Voreis seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-12 LIDDAWI, Fouad - A request for a zoning change from A-1 to C-1 to allow additional permitted used located at 19892 US 6, Zoned A-1. Mr. Fouad Liddawi was present to represent your request. Mr. Adley presented the findings of fact.

The applicant is seeking to rezone an A-1 Agricultural parcel that has historical had commercial uses on the property. In 1985 the motel was permitted to add up to 100% of the motel area for a restaurant addition with the condition that the West drive be an entrance and the East drive be the existing, thus taking into consideration the safety of entering and exiting the facility. In 2015 Mr. Liddawi requested to have a used car lot, vehicle storage and storage units. The 2015 request was approved 3-2, with a list of conditions involving: hours of operation, car limit, no employees, CDR should there be remodeling, and INDOT approval. The rezoning of a property would change the option that the property could be developed as by right, in comparison to the variance of use which could permit the proposal, but may come with conditions.

Mr. Liddawi has been in business since 1955. This property has been used commercially since that date. He would like to be able to sell it commercially as well. It was said that his property is the only commercial property from Lapaz to Walkerton. Mr. Liddawi stated that our current C-1 zoning district allows for used car sales. The assessment of the property is commercial as well. With used car sales being seasonal he would like to have additional income during off season such as the sale of sheds. Doesn't want all the restrictions that a variance would be.

Surveyor, Craig Cultice, asked what was meant by "all the restrictions." Things like telling him how many cars he can have on the lot. Mr. Cultice's concern is if the property were to be re-zoned it would allow the full list of permitted uses within a district that is primarily used for residential purposes.

There are currently 1 or 2 customers on the property. There are more people pulling in doing a U turn than doing business.

Mrs. Barnhart moved and Mr. Cultice seconded the motion to open for public hearing. Motion carried by acclamation.

1. Mary Ellen Lett – 19883 1 C Rd. Walkerton – The requirement by the board was that Mr. Liddawi was only supposed to have 20 cars. Right now, there are 51 cars on the lot. That is double of what you allowed. What makes anyone think that he would follow any of your rules if this is approved. Moved to the country for a reason. It is all farmland.
2. Marcia Kingman – 19942 1C Rd., Walkerton – Moved out of the South Bend area to be in a rural area. Were told by the Realtor when purchasing their property that this location couldn't have more than 20 cars. Agreed that there are more than 50 cars in the lot. It is on a curve and a very busy road. Also has a concern what else the owner may bring on the property.
3. Laura Anderson – 19960 1C Rd., Walkerton – Major concern if this property were zoned commercial and he sells someone else could build a Truckstop. Decreased property values. The applicant has already set a precedence of not following the rules.
4. Andrew Kosinski – 19763 1 C Rd., Walkerton – Attended the previous meeting in 2015 and was against the request. Moved in that location for less traffic and a lesser densely populated area. Questioned if the property were to be rezoned if the rules set forth earlier would be null and void. Looked at the list of permitted uses and notice that there are probably a hundred different uses for that zoning district. Doesn't believe this property should be re-zoned commercially. There aren't any properties zoned commercially for miles.

Mr. Roose moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Liddawi responded that when he purchased the property there were criminal nuisance going on and now there is not. Doesn't make any noise on the property or harming anyone. Doesn't understand the concerns stated.

Mr. Roose asked if there is any intent on using the rooms in the old hotel for anything? Mr. Liddawi said no.

Mr. Hostetler motioned for a unfavorable recommendation to the Marshall County Commissioners <u>19-PC-12 LIDDAWI, Fouad - A</u> request for a zoning change from A-1 to C-1 to allow additional permitted used located at 19892 US 6, Zoned A-1, seconded by Mr. Cultice. Motion carried with a voice vote 6-0 with Mr. Klotz

abstaining because he will be voting as a Commissioner at that meeting.

Solar Ordinance

Mr. Adley requested that before he brings back the proposed solar ordinance for public hearing, he would like individual board members input on the decommissioning/bonding requirements. Requested that members email him their suggestions. After that he will compile all the information and bring it back before the board in a public hearing.

Mr. Klotz requested that decommissioning/bonding requirements be addressed before the solar ordinance is approved.

A large concern of the board is the decommissioning down the road when companies could be out of business. Maintenance Bonds were discussed, but more information was requested on how they work.

Along with the SolSmart Initiative MACOG will be reviewing the proposed ordinance. Once we receive it back, we will bring it back before the board in October or November.

MACOG

Recently recommended approval for the change of scope at the railroad crossing with US 31 between 13th and 14th roads where the bus accident was last year. The original scope recommended a pull over lane; however, the state has elected to upgrade it to a bridge project. Engineering to begin in 2020 and then construction in 2022-23.

The board discussed their surprise with the state putting in a bridge.

Brownfield Coalition

Marshall County has received another grant this year in the amount of $600,000.

Michiana on the move

Michiana on the move 2045 is the long-range transportation plan identifying potential projects between now and the next 25 years. Encouraged the board to look at it and address concerns to MACOG.

Laurie Hayn

Mrs. Hayn was celebrated at the Commissioner's Meeting with Jack Jordan the "Upstanding Citizen Award".

US 30 Interchange Improvements

The interchange improvements proposed by the state will be completely funded by the State. Queen Road is proposed to have a "J Turn". King Road will also receive a "J Turn"

along with a re-alignment of King Road.

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

Respectfully submitted

Bob Yoder

November 21, 2019
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 7:30 p.m. on Tuesday, November 21, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Terri Barnhart, James Berger, Craig Cultice, David Hostetler, Jack Roose, Dan Voreis, Bob Yoder and Stan Klotz. Plan Director Ty Adley was present along with interested parties. Member absent was Mr. Miller.

The first item of business was the review of the minutes from the September 26, 2019, meeting. **Mr. Cultice moved and Mrs. Barnhart seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-13 Marshall County Plan Commission(EROSION CONTROL)– Amend Article 6.040.J. (Surface Water) to read as "Any construction which disturbs more than four-thousand (4,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance."

The Planning Commission proposed to the board to add the following to the existing ordinance.

Soil Erosion
6.040J (Surface Water)
Environmental Standards
J. Surface Water

It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture cultivation to provide for adequate surface water drainage.

Any construction which disturbs more than four-thousand (4,000) square feet of ***cumulative*** surface are***a*** must comply with the Marshall County Drainage and Sediment Control Ordinance.

Currently under the existing development standards you are allowed to build multiple structures on a property as long as each structure is under 4,000 square feet while not having to submit a drainage plan to accommodate surface run off as well as being able to

retain in on the property.

In the past people build structure or cut back the size to meet the less than 4,000 sq ft to eliminate the need for a drainage plan. While cutting back the size to meet this threshold it still has an effect on the stormwater as it goes down stream.

This cumulative effect over the course of time will cause additional issues downstream. We've already seen flooding issues. If something is not done about this the flooding issues will only get worse.

The proposed revision states that any construction which disturbs more than four-thousand (4,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance. At any point in time whenever they meet the 4,000 sq ft threshold whether it's 2/2,000 square foot buildings or 1/ 4,000 sq ft building. Once the 4,000 sq ft threshold is met a drainage plan will be required at that time.

Mr. Cultice, Marshall County Survey, agreed that this proposal is a good thing.

It was clarified that once this is approved everything prior to that date is exempt.

It was asked if the 4,000 sq ft was just buildings. Mr. Adley responded by saying it would be anything in association with the construction, hard surface drives included.

Mrs. Barnhart moved to open for public hearing, seconded by Mr. Cultice. Motion carried by acclamation.

1. Ralph Booker – 9110 Cedar Rd., Plymouth – Requested clarification if everything was grandfathered. Mr. Adley stated that the wording change clarifies this is cumulative. Gave the example in 2020 you could build a 2,000 square foot barn and in 2025 you could request to build another 2,000 sq ft barn, at that point you would be required to provide a drainage plan. As it reads today it's based on the project rather than the total effect on the property. Mr. Booker commented that he, Mr. Fisher, and Mr. Cultice discussed whether they should include what was already present.

Mr. Hostetler moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Hard surface is described as the house, driveway, shed, pole barn. Anything other than grass and tilled fields.

Mr. DeWitt, Marshall County Building Commissioner, submitted a letter stating he has advocated for many years using the total aggregate square footage in determining the need for an erosion control plan. By observations during inspections it shows many cases that multiple buildings adding up to 4,000 square feet are more detrimental than one single building. With various roof pitches, velocity and volume of water coming off the roofs has a

more devastating effect on the environment than a singular 4,000 sq foot building. This will help eliminate many problems during and after construction projects.

Mr. Hostetler made a motion to approve 19-PC-13 EROSION CONTROL – Amend Article 6.040.J. (Surface Water) to read as "Any construction which disturbs more than four-thousand (4,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance, " with a favorable recommendation to the Marshall County Commissioners, seconded by Mrs. Barnhart. Motion carried with a voice vote 7-0-1 with Mr. Klotz abstaining as he will be voting in the Commissioner's meeting.

The third item of business was 19-PC-14 Marshall County Plan Commission (SOLAR) – Various articles within the Marshall County Zoning Ordinance are proposed to be revised as it pertains to the SOL Smart Initiative as well as requirements for Solar Farms.

Mr. Adley presented the solar energy systems presentation discussing the educational aspects with solar research and solar ordinances.

The breakdown included: Ordinance Revision Parts, Typical Concerns, Marshall County Ordinance Context, American Planning Association, Solar Impacts, Additional Standards and Research, Ordinance Modeling, and Marshall County Existing/Proposed Ordinance.

A recap of the typical concerns was: noise, resale, value of property assessment, agricultural preservation, cost to remove, decommissioning, and hazardous materials. During the research that was done by a private company as referenced in the Madison County Project did solar projects all through Illinois and Indiana and came back with negligible information that there is no change.

Agricultural preservation and decommissioning – After talking with a couple of local insurance agencies they proposed three different types of bonds that will be discussed a little later on.

Taxing and assessment – Your residences will continue to be assessed as a residence and the solar units will be assessed under the commercial and industrial rates.

Mr. Yoder asked if there are stipulations where the noise generators are placed on the property due to noise issues. Noise generation was a big issue during the windfarm discussions. Mr. Adley said that it's possible to require a specific setback on the inverters.

The proposed solar ordinance for Marshall County was presented. Discussed were Indiana Codes, Marshall County's existing ordinances, and the Comprehensive Plan.

A series of bonds and/or demonstration of financial assurance are proposed to be required.

i. Bond or financial surety that will cover the reconstruction of public infrastructure due to construction activity related to the solar installation that will be approved in association with the traffic management plan. (Road bonds fairly easy to achieve)

ii. Bond or financial surety that will cover damage to the drainage infrastructure that may be damaged during construction process beginning once construction has been completed. (Private tiles for drainage fairly easy to achieve)

iii. Bond or financial surety that will cover the decommissioning of the solar facility as described in the decommissioning plan. (A lifetime bond – unless there is substantial economic backing and a history of a stable company you won't find a bond that will last 20-30 years. Bonding companies see a 3-5-year time frame as a substantially long time to bond someone for.)

The wording allows Marshall County to require a bond or a surety.

A question was raised on who had the final authority of the bonds/surety for the decommissioning of the solar farms. Mr. Adley stated that it would be the Board of Zoning Appeals.

Mr. Yoder felt that the BZA should make a recommendation to the Marshall County Commissioners to make the final determination since they are the elected officials running the government.

A comparison was made of bonds for subdivision roads which are held by the Planning Commission. Failure to decommission a facility/developmental standard is a violation and is pursued through the Planning Commission which is by part the Board of Zoning Appeals.

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

1. Ralph Booker – 9110 Cedar Rd., - Requested a copy of the proposal. Questioned if the County has proposed this Solar Farm to the other communities. Believes it has the same effect on drainage and county roads to the two-mile zones. Also questioned the breakdown between large scale and farms. Mr. Adley stated their intent was to simplify the classification system.
2. Debbie Vandemark – 14750 Tulip Rd., Culver – Been approached by two different companies to use her farm for solar. Her neighbors have been signing leases. She has a copy of a lease. Hasn't been interested in having a solar farm. Understand there is a study saying it doesn't reduce property values, but doesn't understand how they can figure that with solar being so new. The contracts that have been seen show a 25-year renewable lease paying $850 per acre/per year. Concerns of hers is the decommissioning if the company goes belly up, possibility of more pollution than coal, humming noises, assessment and companies have put into contracts for the solar company to obtain mineral rights.

Mrs. Barnhart moved to close the public hearing, seconded by Hostetler. Motion carried by acclamation.

The board asked for a clarification of obtaining mineral rights. Mr. Adley explained that there

are two aspects to the question. First, the ordinance proposal is the framework for the BZA to consider when approving or not solar farms. Second, is a contractual concern for the public. The county has minimal authority when it comes to contractual concerns. With regard to mining that would have to receive the appropriate approvals from the county as necessary.

Decommissioning is a very big concern of the board. Automatic renewal and escrow were considered. Leaving it open whether bond or surety that covers this cost allows the Planning Commission and BZA while working with the Commissioner's and anyone else necessary to deem that funding type.

During discussion a concern was that the County Commissioners as well as the Council should have a role in the bonding procedure. The Plan Director explained that a County Commissioner as well as a Council representative is a part of the Planning Commission/BZA which is their representation.

Once a solar farm is approved when upgrading it or adding a panel will require a permit which also will require a review.

Three changes were suggested to the proposed ordinance:

1. Reevaluation of the bonding financial surety the board agreed that a 3-year renewal is the best option over a 5 year.
2. Section 5 (ii) 2 years to 5 years
3. Reapply for a permit for upgrades as it is a new structure/new development

Mr. Roose made a motion of approval of <u>19-PC-14 MARSHALL COUNTY PLAN COMMISSION (Solar) –</u> Various articles within the Marshall County Zoning Ordinance are proposed to be revised as it pertains to the SOL Smart Initiative as well as requirements for Solar Farms with a favorable recommendation to the Marshall County Commissioners with the following stipulation be added to the proposed ordinance;

1. **Reevaluation of the bonding financial surety the board agreed that a 3-year renewal is the best option over a 5 year.**
2. **Section 5 (ii) 2 years to 5 years**
3. **Reapply for a permit for upgrades as it is a new structure/new development**

seconded by Mr. Hostetler. Motion carried with a voice vote 7-0-1 with Mr. Klotz abstaining as he will be voting at the Commissioner's Meeting.

The fourth item of business was 19-PC-15 Marshall County Plan Commission (Fee Ordinance) – In order to accommodate the proposed Solar Ordinance evolution, the Fee Ordinance will need to follow suit.

Solar Permits (current)

Micro-less than 120 square feet	$40
Small – 120 -1750 square feet	$80
Medium – 1751 to 40,000 square feet	$150
Large – 40,001 square feet or above	$250

Pending the approval of the proposed solar ordinance restricting of fees is necessary.

Micro-less than 120 square feet	$40
Small – 120 -1750 square feet	$80
Medium – 1751 to 1 acre	$150
Large – 1 to 10 acres	$250
Farm – 10 acres or more	$20/acre

When describing acres in relation to solar acres solar is based on the surface area of the panels. Much of the board had concern of the description "acres". Defining acres in regards to permitting description is necessary to be completely understood. The terminology "square feet" and "panel acres" were proposed. The pricing is based completely on the panels not buffers or pollinators. How other counties price their solar farms range from square feet to kilowatt hours.

The farm pricing per acre was of concern and the board concurred with an increase to $25 per acre.

The board discussed the income of the permits and if the office would retain those monies. Mr. Adley reminded the board that the offices income all goes into the general fund. Their concern was the time it will take to administer approval and inspections of the Solar Farm and how this will happen with the limitations of the current staff. Every board member believes that whatever income is received for a solar farm permit be retained in office. A solar farm permit, review and inspections isn't like any other inspection. The approval/inspection process is much more detailed than others.

Mrs. Barnhart moved to close the public hearing, seconded by Mr. Roose. Motion carried by acclamation.

Mr. Yoder made a motion to approve 19-PC-15 MARSHALL COUNTY PLAN COMMISSION (Fee Ordinance) – In order to accommodate the proposed Solar Ordinance evolution, the Fee Ordinance will need to follow suit and make a favorable recommendation to the Marshall County Commissioner's with the following amendment:

1. **Farm – 10 acres or more $25.00 per acre**
2. **Acres are described as panel acres not physical acres**

Seconded by Mrs. Barnhart. Motion carried with a voice vote 7-0-1 with Mr. Klotz abstaining.

Deadline Submission Change

The Plan Commission will be changing the current submission date from 15 days prior to the meeting to the meeting prior. This will give us sufficient time for legal notice and it will allow us to notify the board if there are cases to be heard the following month.

Marshall County Plan Commission
November 21, 2019

Meeting Time Discussion

The board discussed the Plan Commission's meeting time. It was brought up that some would like the meeting time to be earlier.

Mr. Roose made a motion to move the meeting time from 7:30pm to 6:00pm. Much of the board spoke that it would really push them to get to the meeting at 6:00. Motion withdrawn.

Mr. Berger made the motion to move the meeting time from 7:30 pm to 7:00 pm, seconded by Mr. Yoder. Motion carried 7-1 with Mr. Hostetler against.

The Plan Commission and Building Department sent out a letter to all the current contractors explaining the permitting process and registration process. Nothing has changed it was just a reminder of what is required to help with the fluidity of the permitting process.

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

Respectfully submitted

Bob Yoder