

MORGAN COUNTY PLANNING COMMISSION
County Administration Building
Martinsville, Indiana
July 12, 2021

MINUTES

MEMBERS PRESENT

Terry Brock - Chair
Melanie DePoy - Vice Chair
Dustin Frye - Secretary
Kenny Hale
Jason Maxwell
Brian Patrick
Fred Roberts
Bill Rumbaugh

OTHERS PRESENT

Laura Parker - Plan Director
Mark Peden - PC Attorney
Sandy Mosier - Planning Staff

OTHERS ABSENT

Michele Jones

CALL TO ORDER

Chair Brock called the meeting to order at 6:34 pm.

APPROVAL OF MINUTES

Chair Brock called for a motion to approve the minutes from June 14, 2021. Member Rumbaugh made a motion to approve the minutes as presented. Member Patrick seconded the motion. The motion carried 6-0-2 with DePoy and Frye abstaining from the vote.

APPROVAL OF AGENDA

In the interest of time, Chair Brock suggested moving petitions V-21-01 and Z-21-06 to the top of the agenda. Vice Chair DePoy made a motion to approve the agenda with the proposed changes. Member Hale seconded the motion. The motion carried 8-0.

NEW BUSINESS

<u>V-21-01</u>	<u>Cody & Shelly Buck</u>	<u>Vacation of Plat</u>	<u>Zoning</u>
	Brookfield Estates	Clay Township	R-2
	SW corner of McClure Blvd and Old SR 67		
	Brooklyn, IN		

Petitioner Cody Buck addressed the board. He and his wife purchased this property with the intention of building one house on the property. They do not want to develop the property as platted, so he would like to vacate the existing subdivision plat and let the property revert back to one unplatted lot. Chair Brock asked if property would go back to being described as a meets and bound description. Mr. Buck said it would. Chair Brock asked Plan Director Laura Parker to comment on her staff report. She said she had

nothing further to add unless the board had questions. Since there were none, she gave the petition a favorable recommendation.

Chair Brock called Ralph Love forward. He lived next to the property and was in support of the petition. He told the board that he preferred only one house being built on the property instead of the planned fifteen lot subdivision.

With no one else signed up to speak on this petition, Chair Brock closed the public hearing. Chair Brock asked for discussion from the board. Member Hale made a motion to approve V-21-01. Member Maxwell seconded the motion. The motion carried 8-0.

<u>Z-21-06</u>	<u>The Enclave at Heartland LLC</u>	<u>PUD Amendment</u>	<u>Zoning</u>
	Southwest corner of North County Line and Paddock Roads Camby, IN	Madison Township	PUD

Adam Mears, from the Gradison Group representing the developer of The Enclave at Heartland Crossing LLC, asked the Commission to recommend approval for a PUD Amendment. Mr. Mears told the Commission that this section of the PUD development had previously been approved for larger lots to accommodate bigger homes, but since that approval the housing market has turned toward a need for “empty nester” homes. Mr. Mears said this section of Heartland Crossing would be a good fit for this type of housing where the owners would own the homes but the yard maintenance would be provided by the homeowner’s association. Mr. Mears said that these homes would all be single-story homes and the number of units would be reduced from 109 to 91. He said in addition to the public notice, they held a neighborhood meeting to discuss the proposal and only one person showed up.

Chair Brock asked Plan Director Parker to review her staff report. Mrs. Parker reviewed her case summary and indicated a favorable recommendation for the PUD Amendment citing reasons stated in the staff report.

Chair Brock told the board there was no one signed up to speak for or against the petition so the public hearing was closed.

There being no further discussion from the board, Chair Brock called for a motion. Member Frye made a motion to send a favorable recommendation to the Commissioners for the PUD Amendment. Member Roberts seconded the motion. The motion carried 8-0.

OLD BUSINESS

<u>RP-21-03</u>	<u>Dwayne Walters/Ralph Wise</u>	<u>Vacate/ Replat</u>	<u>Zoning</u>
	Dwayne Walters 1 st Subdivision Lots 9-13 on Cody Court Camby, IN	Madison Township	R-1

This petition was placed back on the agenda because the 4-3 vote to approve the petition at the June 14th meeting was not considered an official vote. Two out of the nine members were absent, so an official vote as defined by the Plan Commission Rules of Procedure must be at least 5 votes of the entire board. Since it was not a majority vote of all the members, the vote was considered an indecisive vote and is automatically scheduled to be re-heard at the next meeting.

Ross Drapalik, representing petitioners Dwayne Walters and Ralph & Felicia Wise, explained the vacate and replat request. He said they wish to vacate lots 9, 10, 11, 12 & 13 of the subdivision and then replat them as one larger lot. Mr. Drapalik said he wasn't involved when the subdivision was started, but he knows there is a lot of history with this subdivision and his clients are just trying to find a solution. Mr. Drapalik explained how Mr. Walters' partners in the development abandoned the project and Mr. Walters was financially unable to complete the subdivision. After so much time has passed, it is apparent neither the road nor the drainage will ever be completed. The petitioners had proposed a plan to convert the entire subdivision from a major to a minor plat, but not all the property owners were on board with the idea, so vacating and replatting just the five lots was the best solution. Member Rumbaugh asked if Mr. Walters (who owns the platted roadway) was interested in vacating the road. Mr. Drapalik stated that Mr. Walters was willing to do anything to get out of any ownership in the subdivision so he could possibly deed the road over to the homeowner's association. Vice Chair DePoy asked how much property Mr. Walters still owned in the subdivision. Mr. Drapalik said other than the road, Walters has partial interest in the five lots that are part of this petition.

Chair Brock then began calling those who were in support of this petition forward. Damon Harrell stepped forward and told the board he was the potential buyer of the property. He said he would be contributing funds for maintenance of the road and would be willing to help the others with maintenance work. Mr. Harrell told the board that a septic field had already been approved for the site and there was an existing well on Lot 11 that had recently been serviced.

Chair Brock then called up Ralph Wise. Mr. Wise said he and his wife have been working on this a long time and are just trying to get back their original purchase price of \$40,000 for their lot. Member Roberts asked Mr. Wise how long they owned the property. Mr. Wise said they purchased the property in 2007 and began clearing it in 2008.

Chair Brock then asked Plan Director Laura Parker if she had any additional comment besides the staff report. Mrs. Parker clarified that the county has a policy of not taxing private lanes or private platted roads because they often went up for tax sale and it cost the county more to administer these parcels than they collected in taxes. Therefore, Mr. Walters was not being taxed as the owner of a private road and it would not be subject to tax sale. He will continue to own the road unless it is deeded to someone else. With no other questions from the board, Mrs. Parker closed by saying she was in favor of approving the vacate and replat.

Chair Brock then called the remonstrators forward. Brenda Ward stepped forward and stated that she lives in Wildwood Shores and wanted to know if Walter's 1st Subdivision was part of Wildwood Shores Conservancy. Chair Brock said that Walter's 1st Subdivision has a homeowner's association and was not part of Wildwood Shores Conservancy.

Neal Higgins was called forward to address the board. He spoke about buying the property and building a house many years ago and the promises Dwayne Walters made about the road. He said he provides most of the maintenance for the road and has purchased equipment and materials to keep it maintained. He is not interested in owning the road even if Walters agreed to turn it over to the property owners. He referred to several pages of notes and quoted language from the County's Subdivision Control Ordinance and Comp Plan. Mr. Higgins said he and another property owner (Dustin Criswell) made multiple offers to purchase these five lots from Mr. Walters to leave as green space, but they were declined. Vice Chair DePoy asked Mr. Higgins how he gets out of the subdivision. Mr. Higgins said it requires a 4-wheel drive truck because the road is so rough. Mr. Higgins also said he was concerned about delivery trucks dropping off building materials further damaging the road. Mr. Higgins said that he had to drill two wells before he was able to find water and allowing another house to be built in the subdivision will bring down the water table for all surrounding residences and it's not fair that they should have to pay any money out for another water source when it's someone else's fault. Also, Mr. Higgins said he is concerned the quality of the construction of the proposed house will bring down their property values.

Dustin Criswell was called to the podium. He told the board that he purchased his property within Walter's 1st in 2014 with a house already built on it as an investment. He spoke about the newly created homeowners' association that he is president of, but said it was not a legal entity (not incorporated). He wants to know who will fix damage done by delivery trucks. He says he helps maintain the road right now but does not want to own the road due to liability reasons. He said there have been two accidents as people turn into the subdivision. Mr. Criswell was very upset about his water situation. He said that his water comes from a well located on Lot 11. He said he has an easement that extends to the well house located at the back corner of the lot. Mr. Criswell said when he purchased property he was told that this would be his access to water until public water was brought into the subdivision. He said this was told to him several years ago and he was still waiting for what was promised to him which was a public water supply and a paved road. Mr. Criswell said he was also concerned about his water pressure because he already struggles with this.

Vice Chair DePoy asked for clarification on who was hooked up to the well on Lot 11. Mr. Criswell said that when subdivision was being developed the property owners were promised the road would be done and public water would be brought to each of the lots, but until that time, a well was dug on Lot 11 to supply water to what is now Mr. Criswell's property and also to six trailers to the southwest of the subdivision in Spring Lake.

Chair Brock called Jordon Scheurer to the podium. Mr. Scheurer claimed that the silt in Wildwood Shores Lake is due to construction in Walter's 1st according to a Burke Engineering study. Chair Brock asked Mr. Scheurer how Burke Engineering could pinpoint just one thing causing the silting in the lake. Mr. Scheurer said the report listed it as a cause. Chair Brock said he wanted to see the report because he thought it was strange that a subdivision that has only two houses, no road, no infrastructure, and no tree clearing could be the source of all the silting in the lake.

Chair Brock called Gary Burns to the podium. Mr. Burns told the board that entering into Walter's 1st is on a dangerous curve. He told the board he lives by the entrance of the subdivision and has witnessed several times people almost wrecking while going in plus with the road only being one lane adding more traffic would be disastrous. Also, he said he was concerned about building materials that are to be delivered to this new lot and any damage the trucks might cause to the roads.

Chair Brock called Larry Burns forward. Mr. Burns described the repairs and the money they had spent on the road leading into their property which he bought and replatted into 3 lots. He said the county was supposed to finish the road up to that point and maintain it. Chair Brock asked Mr. Burns which section of Wildwood Shores he purchased. Mr. Burns said it was originally platted as Section 5.

Scott Wilkins came to the podium and told the board that he bought the five lots behind his house in Wildwood Shores to protect his backyard. He does not want to see another house go in because the area does not need more traffic. Charlie Gilmer told the board that he lives behind the proposed new lot and is concerned that adding anymore homes to this will add more pressure to the already dwindling water table in the area. Chair Brock called Joy Higgins to podium. Mrs. Higgins told the board that from purchasing the lot until now she feels like she has been lied to. At first, she said they were told the road would be completed and their house would have public water (back in 2006) now she feels like the petitioner's realtor lied to them trying to convince them the other owners of lots in subdivision were on board with this petition when that was not the truth. She went on to say that they pay conservancy fees and joining the conservancy was a condition of Walters' ability to access the property through Wildwood Shores. Chair Brock called Philip Mesecar to the podium. Mr. Mesecar said he lived in Wildwood Shores and was at the meeting to show his support to deny the vacate and replat petition.

Chair Brock then called Mr. Drapalik back to the podium for rebuttal. Mr. Drapalik stated that the home would be built to the same standards of other homes in the subdivision because it was subject to the covenants that were created with the original subdivision plat. He said at this point, the road could not be deeded over to the homeowner's association because it is not considered a legal association. However, the county commissioners could vacate the road or the homeowners in subdivision could bring it up to standards. Chair Brock asked Mr. Drapalik about the well being installed for multiple users. Mr. Drapalik said he had no idea about the well and an easement for it did not appear on the original plat. Chair Brock asked Mr. Wise if he knew about the well serving multiple properties. Mr. Wise said that when he purchased his lot, he was told he

would be the first property to use it. Vice Chair DePoy asked Chair Brock to explain why his office had stopped all construction from continuing in this subdivision. Chair Brock said that the developer was in violation of Rule 5 and had no approved drainage plan.

Chair Brock stated they have been dealing with this issue for 15 years now and this is the best solution so far. Member Rumbaugh said they were in a difficult position regarding the subdivision and would likely offend someone no matter what decision they made. Member Hale said that he has been trying to get a resolution for Mr. Wise for years and this plan is the best one. Member Roberts said he'd rather see one house be built instead of five, but he was concerned about the well. Vice Chair DePoy said she still had concerns regarding the well on Lot 11 and how many it was serving. Chair Brock said he has been on the board since the subdivision was first proposed. He said the situation is not perfect, but it allows the property owner to sell his property.

Member Rumbaugh made a motion to approve RP-21-03 with any well easements placed on the final plat before it gets recorded. Member Hale seconded the motion. Motion carried 6-2 with Vice Chair DePoy and Member Patrick voting against the motion.

ATTORNEY REPORT

No report.

PLAN DIRECTOR REPORT

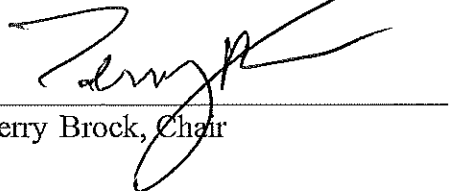
No report

NEXT MEETING

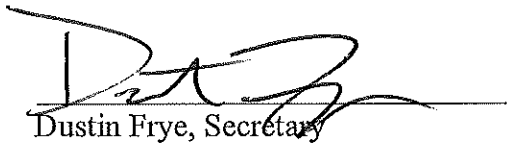
The next Plan Commission meeting is scheduled for August 9, 2021 at 6:30 pm.

ADJOURNMENT

Chair Brock called for a motion to adjourn the meeting. Vice Chairman DePoy made a motion to adjourn the meeting. Member Hale seconded the motion. The motion carried 8-0.



Terry Brock, Chair



Dustin Frye, Secretary