

MORGAN COUNTY PLANNING COMMISSION
County Administration Building
Martinsville, Indiana
June 14, 2021

MINUTES

MEMBERS PRESENT

Terry Brock - Chair
Michele Jones
Kenny Hale
Jason Maxwell
Brian Patrick
Bill Rumbaugh
Fred Roberts

OTHERS PRESENT

Laura Parker - Plan Director
Mark Peden - PC Attorney
Amber York - Planning Staff

OTHERS ABSENT

Melanie DePoy - Vice Chair
Dustin Frye - Secretary

CALL TO ORDER

Chair Brock called the meeting to order at 6:31 pm.

APPROVAL OF MINUTES

The Chair called for a motion to approve the minutes from May 10, 2021. Member Rumbaugh made a motion to approve the minutes as presented. Member Roberts seconded the motion. The motion carried 7-0.

APPROVAL OF AGENDA

Chair Brock asked the board if there were any additions or corrections to the agenda. Member Hale made a motion to approve the agenda as presented. Member Jones seconded the motion. The motion carried 7-0.

OLD BUSINESS

MIP-21-02

Jennifer Sadler
N Letterman Road
Paragon, IN

Preliminary/Final Plat
Ashland Township

Surveyor Ross Drapalik stepped forward to speak on behalf of Jennifer Sadler. Mr. Drapalik stated the petitioners want to minor plat 37.5 into three (3) lots that would be accessed by an easement to Letterman Road. Mr. Drapalik informed the board that the person interested in Lot 1 is an adjoining neighbor and they will not be using the Letterman Road easement. He can add language to the plat stating the easement will only be accessible by Lots 2 and 3 if the Commission wants that change. Chair Brock stated that there should be a road maintenance agreement for Lots 2 and 3. Mr. Drapalik stated that they can add it, but just wanted to let the board know that Lot 3 is pretty much unbuildable due to the slope of the property. He thought it was likely only one owner will

have Lots 2 and 3. Member Roberts asked about the width of the driveway. Mr. Drapalik stated that the easement is 50 feet wide, but the drive will probably be around 15 feet or so since there will only be one household using it.

With no remonstrators signed up to speak, Chair Brock closed the public hearing. He then asked for discussion from the board regarding petition MIP-21-02. Member Hale made a motion to approve MIP-21-02. Member Patrick seconded. Motion carried 7-0.

Z-21-01

Jennifer Sadler
N Letterman Road
Paragon, IN

Rezone
AG to R-1

Surveyor Ross Drapalik asked the board for a favorable recommendation to rezone the 37.5 acres from AG to R-1 as a condition of the minor plat approval. He stated this zoning will go along with the surrounding area.

There were no remonstrators, so Chair Brock closed the public hearing and asked for a motion on petition Z-21-01. Member Rumbaugh made a motion that they send a favorable recommendation for the R-1 rezone to the County Commissioners. Member Patrick seconded the motion. The motion carried 7-0.

NEW BUSINESS

RP-21-03

Dwayne Walters
Walters 1st Subdivision
Lots 9-13 on Cody Court
Camby, IN

Vacate/ Replat
Madison Township

Surveyor Ross Drapalik, representing Dwayne Walters and Ralph & Felicia Wise, explained the request to vacate and replat five lots into one. Mr. Drapalik said Lots 9, 10, 11, 12, & 13 would be vacated then replatted as one new lot. He acknowledged there is a lot of history with this subdivision, but this request is about a vacate and replat of five lots which will actually decrease the density of the subdivision. Member Rumbaugh asked if there would be a road maintenance agreement. Mr. Drapalik stated there would not due to the road still being owned by Mr. Walters. Member Rumbaugh then asked if this replat would hurt Wildwood Shores? Mr. Drapalik said it will lessen traffic thru the neighborhood by reducing the number of homes that can be built. Chair Brock asked if anyone had questions for Mr. Drapalik. The board indicated they did not at this time.

Chair Brock then allowed realtor Mackinsie Woods to come forward. She asked if the board had any specific questions about Wildwood Shores. The board indicated they did not. Chair Brock then called petitioner Ralph Wise forward. Mr. Wise stated that he and his wife had been working on this a long time with Mr. Walters and he explained why he originally chose that location in 2007. He said combining the lots will not hurt anything and he encouraged the board to approve the request. Member Roberts asked if they

planned to build on the replatted lot. Mr. Wise said he and his wife have plans to move to Tennessee so they will not be building on the property. Chair Brock then called Dale Coffey to the podium. Mr. Coffey stated he has worked with Mr. & Mrs. Wise for years regarding this property and he thinks this is a solution that allows the lots to be sold and built upon.

Chair Brock then asked Plan Director Laura Parker if she had anything to add. She said she had nothing additional beyond what was in the staff report except to clarify that the 18 lots of the subdivision were owned by just 6 parties. Chair Brock then asked her if houses could potentially be built back on the lots. Mrs. Parker stated that these were platted lots and they continue to be buildable sites in the subdivision.

Chair Brock then called the remonstrators forward. Gary Burns approached the podium and stated that he lives in Wildwood Shores (the replatted portion known as Burns Estates) and is friends with the Higgins who were unable to be present, but he wanted to make sure the board had a copy of the Higgins letter opposing the request. He went on to say that it is not right that Mr. Walters is allowed to make a profit off the selling of these lots since he failed to make all the improvements he had promised to make. It left others to maintain the roads and has caused lots of issues for Wildwood Shores. Mr. Burns stated he would like to see something done with the road and the board should not approve this request without it.

Chair Brock then call Dustin Criswell forward. Mr. Criswell indicated that he lives in Walter's 1st Subdivision and that he wants to know if the vacate and replat is approved, will it lift all the "no build orders" in the subdivision or is this just a way around the no build order. Mr. Criswell said he also has had to fix the road himself and he complained about the broken promises to maintain the road made by Dwayne Walters.

Chair Brock then called Mr. Drapalik back for rebuttal. Mr. Drapalik stated that this petition first started out as a minor plat containing 5 lots. If everyone would have agreed to participate in the minor plat, there could have been a road maintenance agreement for all the property owners in the minor plat, but some of the neighbors decided to back out because they did not want all their lots combined into one. Mr. Drapalik stated that the vacate and replat will never fully resolve all the issues left by Walters, but this allows for Mr. Wise to sell his lot and it reduces five lots down to one which is usually viewed as a good thing. Chair Brock then closed the public hearing and called for discussion from the board.

Member Rumbaugh asked Plan Director if there was anything they can do to make it fair to everyone and not just who buys the new lot. Mrs. Parker explained that the county has no leverage to make Mr. Walters finish what he started which is why the county had pushed for the property owners to participate in a minor plat. Without that, the vacate and replat is a reasonable solution for part of the problems that have been created. Other lots will have to be dealt with on a case-by-case basis. Chair Brock stated they have been dealing with this for 15 years now and this is the best solution so far. Member Roberts would prefer to see all the homeowners coming together to work it out. He asked if Mr.

Walters could give the road back to the homeowners. Mrs. Parker said that would have been resolved if the other homeowners hadn't turned down the minor plat opportunity. Chair Brock stated that the replat will decrease the overall density for the subdivision.

Member Hale made a motion to approve RP-21-03. Member Maxwell seconded the motion. The board voted 4-3 to approve the motion. However, per the Plan Commission Rules of Procedure, an approval is not an official action unless it is carried with a majority of the 9-member board. As a result, with 2 members absent, the motion needed 5 votes to be approved. Therefore, the motion failed. Mr. Drapalik then asked if they could make another motion to table until next month. Attorney Mark Peden said that the question had been decided and there was no other motion that can be made on this request. Chair Brock asked Plan Director Parker when they could apply to be heard again. Mrs. Parker stated that the Rules required a 3-month waiting period unless the board wanted to waive or reduce the waiting period. Member Hale made a motion to waive the 3-month waiting period. Member Roberts seconded the motion. Motion carried 7-0. The petitioners can resubmit for the July meeting.

MIP-21-06

Kevin and Tonia Smith

Centenary and SR 144
Mooresville, IN

Preliminary/Final Plat

Madison Township

Surveyor John Larrison, representing petitioners Kevin and Tonia Smith, handed out a copy of an updated plat to the Commission members. He explained that they are looking to create a 3-lot minor plat that has a road maintenance agreement for the easement that serves the three lots. Mr. Larrison said the revision he handed out reflected a minor change to the easement. He went on to say that they have already had soil tests done on each lot to make sure they can handle a septic. Chair Brock asked about the labels on the plat not matching up. Mr. Larrison stated he will fix it and provide a corrected plat to the Plan Commission office. Chair Brock asked if the board had any questions. The board indicated they did not. He opened the public hearing. There were no remonstrators signed up to speak on this request, so the Chair closed the public hearing.

There being no further discussion from the board, Chair Brock called for a motion. Member Rumbaugh made a motion to approve minor plat MIP-21-06. Member Roberts seconded the motion. Motion carried 7-0.

Z-21-05

Kevin & Tonia Smith

Centenary & SR 144
Mooresville, IN

Rezone

AG to R-1

John Larrison remained at the podium for this request also. He asked for a favorable recommendation be sent to the commissioners to rezone this from AG to R-1. The R-1 zoning is compatible with the surrounding area. The board had no questions.

With no remonstrators signed up, Chair Brock opened and closed the public hearing. He then called for a motion. Member Rumbaugh made a motion send a favorable

recommendation to the Commissioners for petition Z-21-05. Member Maxwell seconded the motion. The motion carried 7-0.

Z-21-04

BRL Properties LLC

309 W Union Street
Paragon, IN

Rezone

R-4 to B-3
w/written commitments

Attorney Dale Coffey came forward representing BRL Properties. Mr. Coffey stated that the Commissioners had directed him to come back to the Plan Commission to have the written commitments approved and to ask for a favorable recommendation on the rezone request. He pointed out that the Plan Director provided them with a highlighted list of all the uses they have offered to restrict plus the additional uses the Plan Director has recommended. He indicated that his client has agreed to restricting the additional uses suggested by the Plan Director. Chair Brock asked if the board had any questions for Mr. Coffey. The board indicated they did not.

Chair Brock asked Plan Director Laura Parker if she had anything to add to her written staff report. Mrs. Parker commented that it is unusual to have so many uses stricken from a zoning district, but in this case, the petitioner was willing to eliminate the uses that were not compatible—but will still have enough options to redevelop a vacant building.

Chair Brock then opened the public hearing and called remonstrator Brian Goss to the podium. Mr. Goss stated he was appearing on behalf of the Paragon Town Council. Mr. Goss stated that neither Mr. Coffey or anyone from BRL Properties had come to the town council to explain what they are wanting to do with the space. Mr. Goss said the town council had a chance to look over the use matrix chart and felt like B-1 would be a good fit, but not B-3. The town wants to know what they want to put in the building since they are the ones that will have to live with it every day. Member Hale explained to Mr. Goss that he is surprised that no one from the town had shown up at the previous meeting nor called him directly to ask about what is going on. He also pointed out that the grocery store could not be reopened without rezoning or a variance. Member Roberts then asked Mr. Goss what uses the town was afraid of going in on the property since so many uses were being restricted in B-3. Mr. Goss said the town only wanted B-1 for the property.

Chair Brock then called Mr. Coffey up for rebuttal. Mr. Coffey said that his client believes the B-3 with the restricted uses would be a good fit, and as Member Hale mentioned that if they wanted to reopen a grocery store they could not do it without rezoning to B-3 or going for a use variance. He asked the board to provide a favorable recommendation with the written commitments.

There being no other remonstrators, Chair Brock closed the public hearing. Member Roberts asked Plan Director Laura Parker if the board had any responsibility to inform the town board of what is going on in their town. Mrs. Parker stated that they do not have a requirement, but that we communicate with each community as a courtesy to them. She noted that Paragon has a relatively new town council and she hopes that they will have trust in her twenty plus years of planning experience and realize that she only wants the

best for the town. She believes that with all the uses that they have restricted in the written commitment, this will allow the petitioner enough options to redevelop a vacant building with a use that is a compatible fit for Paragon. Member Hale made a motion to send a favorable recommendation to the County Commissioners for Z-21-04 with the written commitments as agreed upon. Member Roberts seconded the motion. Motion carried 7-0.

ATTORNEY REPORT

No report.

PLAN DIRECTOR REPORT

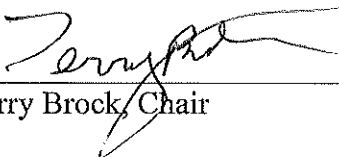
Plan Director Parker used this opportunity to remind the board that these types of zoning issues and conflicts will be addressed in Brooklyn and Paragon once the Zoning Ordinance has been updated. The Plan Commission will have an opportunity to review the proposed changes as part of the updating process.

NEXT MEETING

The next Plan Commission meeting is scheduled for July 12, 2021 at 6:30 pm.

ADJOURNMENT

Chair Brock called for a motion to adjourn the meeting. Member Patrick made a motion to adjourn the meeting. Member Jones seconded the motion. The motion carried 7-0.



Terry Brock, Chair



Dustin Frye, Secretary