

WHITLEY COUNTY PLAN COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, SEPTEMBER 18, 2019, 7:00 P.M.

MEMBERS PRESENT

Elizabeth Deckard
Thor Hodges
John Johnson
Mark Mynhier
Tom Western
Joe Wolf
Brad Wolfe
John Woodmansee
Doug Wright

MEMBERS ABSENT

None

LEGAL COUNSEL

Dawn Boyd

STAFF

Nathan Bilger
Mark Cullnane

VISITORS

Twelve visitors signed the guest list at the September 18, 2019, Whitley County Plan Commission meeting. The original guest list is kept on record in the Columbia City/Whitley County Planning & Building Department.

CALL TO ORDER/ROLL CALL

Mr. Wright called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance. All Commission members, except Ms. Deckard, were present when roll call was read by Mr. Cullnane.

CONSIDERATION AND ADOPTION OF THE JUNE 19, 2019, AND JULY 17, 2019, MEETING MINUTES

Mr. Wright stated that the Commission had received the June 19, 2019, and July, 17, 2019, regular meeting minutes, but did not have adequate time to review them prior to the meeting. Mr. Wright asked the Commission if it would like to consider the June and July minutes, or if it would prefer to continue them until the next meeting. The Commission decided to continue consideration of the June and July regular meeting minutes until the October meeting.

ADMINISTRATION OF THE OATH TO WITNESSES

Approximately 5 guests were sworn in by Ms. Boyd.

NEW BUSINESS

19-W-VAC-3

R & E Fahl Farms, LLC request vacation of a part of Magic Hills Estates. The subject properties are located on the northwest corner of the intersection of State Road 9 and CR 500 North. The

properties are zoned AG, Agricultural District, in Section 10 of Thorncreek Township and contain 42.2± acres.

Mr. Bilger summarized the staff report. He stated that Magic Hills Estates subdivision was originally platted in 1989 and was comprised of 29 lots, four new streets and a block for the Magic Hills Golf Club. Lots 23-25, 27, 29 and Deborah Drive were not fully developed. The golf course closed in 2016, and in 2017 the subdivision was replatted to include two new lots and the expansion of several existing lots from land that was part of the golf club block.

Ms. Deckard arrived at 7:08 p.m.

Mr. Bilger stated that the remainder of the golf club block along with lots 23-25, 27, 29 and Deborah Drive right-of-way remained in the original plat. Petitioner has cleared the golf course, undeveloped lots, and Deborah Drive right-of-way for agricultural use. The present proposal is to vacate the remaining portion of the Magic Hills Golf Club block, lots 23-25, 27, and Deborah Drive right-of-way.

Mr. Bilger discussed methods of right-of-way vacations. One approach considers platted right-of-way as part of a plat, therefore vacation of the plat can include vacation of the right-of-way. The other approach is that platted right-of-way is treated as a public way or public and would be vacated by ordinance through the County Commissioners. The Commission does not have a clear precedent for which approach should be utilized. Recently, a plat vacation near Laud included vacation of platted alley rights-of-way; those alleys were not developed. Mr. Bilger stated that right-of-way can generally be vacated with the plat when the right-of-way is not developed. The vacation of the Deborah Drive right-of-way presents a different problem as it is partially developed. In the event that the right-of-way is developed, it should go through the right-of-way vacation procedure. As the Deborah Drive right-of-way is only partially developed, it did not fit within either of the two approaches to dealing with vacations.

Mr. Bilger reviewed aerial photos of the parcels associated with this petition, the original 1989 plat, and the 2017 replat, and the findings of fact criteria from the staff report. He stated that the vacation appears consistent with state and local standards for plat vacations. He recommended that any rights-of-way for CR 500 North and SR 9 should not be vacated as part of this petition, and that the Commission should discuss how to address the potential vacation of the Deborah Drive right-of-way. Mr. Bilger asked the Commission if it had any questions for him regarding this petition. Hearing none, Mr. Wright asked the petitioner or its representative to approach the podium and address the Commission.

Max Fahl, 8928 Goshawk Lane, Fort Wayne, IN 46825, stated that the intent of the vacation is to reduce the number of tax statements that R & E Fahl Farms, LLC receives for the properties in question.

Mr. Wright the Commission if it had any questions for the petitioner.

Mr. Woodmansee asked Mr. Fahl if he had any opinion on the vacation of the Deborah Drive right-of-way. Mr. Fahl stated that he would be in favor of vacating the right-of-way, but that it

was ultimately up to the Commission. Mr. Bilger and Mr. Fahl discussed the potential vacation of the Deborah Drive right-of-way.

Mr. Wright asked Mr. Fahl if he was the owner of Deborah Drive right-of-way. Mr. Fahl confirmed that he thought he was the owner of the Deborah Drive right-of-way.

Mr. Wright asked Mr. Fahl if he intends to continue farming the properties in question. Mr. Fahl confirmed that the properties in question have been farmed for the past three years, and that he does intend to continue farming them. Mr. Wright asked Mr. Fahl if the Deborah Drive right-of-way is being farmed. Mr. Fahl stated that it is being farmed and that he was not aware that any improvements, such as the placement of gravel, had been made to it.

Mr. Wright asked the Commission if it had any additional questions for Mr. Fahl. Hearing none, Mr. Wright asked if any members of the audience wanted to speak for or against the petition.

Terry Smith, legal counsel for Kent and Deborah Miller of 5215 N. SR 9, Columbia City, approached the podium. Mr. Smith voiced objection to the vacation of the Deborah Drive right-of-way. Mr. Smith approached the Commission members and referenced a remonstrance letter that he had submitted to the Plan Commission on behalf of Mr. and Mrs. Miller. Mr. Smith stated that his clients object to vacation of the Deborah Drive right-of-way as they have improved it by placing thousands of pounds of gravel along its length. Mr. Smith stated that Mr. and Mrs. Miller's intention is to subdivide their lot and sell the westernmost portion. In the future, the Deborah Drive right-of-way could be improved so that it meets the county's standards and provide frontage for this potential future lot. If the Deborah Drive right-of-way is vacated, the potential future lot would be unbuildable because it would not have road frontage.

Mr. Wright asked the Commission if it had any questions for Mr. Smith. Mr. Western asked Mr. Smith if he knew who is paying the taxes on the Deborah Drive right-of-way. Mr. Smith stated that he believed it is dedicated to the public. Mr. Fahl stated that he believed it is his property. Mr. Smith stated that ownership of the Deborah Drive right-of-way is in dispute. Mr. Bilger stated that the Deborah Drive right-of-way is currently dedicated to the public and should not be assessed.

Kent Miller, 5215 N. SR 9, Columbia City, approached the podium. He stated that he does not want to stand in the way of Mr. Fahl and R & E Fahl Farms, LLC vacating the remaining portion of the Magic Hills Golf Club block, lots 23-25, and lot 27. His interest is in maintaining the right-of-way for Deborah Drive so that he can, in the future, subdivide his lot and create a buildable lot to the west of his existing home.

Mr. Wright asked Mr. Fahl if he had a problem with not vacating that portion of the Deborah Drive right-of-way to the west edge of Lots 26/27. Mr. Fahl stated that it is up to the commission to make that determination.

Mr. Fahl, Mr. Miller, and the Commission discussed the potential vacation of the Deborah Drive right-of-way.

Mr. Bilger stated that Deborah Drive is currently a public right-of-way, but is not a public road as it does not meet the county's standards. Developing Deborah Drive into a public road that is up to the county's standards without the platted cul-de-sac would require a new cul-de-sac right-of-way, or a waiver of the requirement from the Commission.

Mr. Fahl, Mr. Miller, and the Commission continued to discuss the potential vacation of the Deborah Drive right-of-way.

Mr. Wright asked Mr. Fahl if he has an objection to not vacating the Deborah Drive right-of-way if he is not paying taxes on it. Mr. Fahl stated that he did not. Mr. Bilger and the Commission discussed the implications of vacating the Deborah Drive right-of-way.

Mr. Woodmansee asked Ms. Boyd if it is possible for the Commission to vacate only a part of the Deborah Drive right-of-way. Ms. Boyd stated that normally a vacation of right-of-way includes the entirety of the right-of-way in question. Ms. Boyd recommended to the Commission that it address the vacation of platted properties and leave the vacation of the Deborah Drive right-of-way to the County Commissioners, if they wish to address it.

Mr. Wright asked if any Plan Commission members had additional questions for petitioner. Hearing none, Mr. Wright asked if there were any other individuals who wanted to speak regarding this petition. Hearing none, Mr. Wright closed the public hearing.

Mr. Woodmansee made a motion to approve 19-W-VAC-3 with the following conditions:

1. Any rights-of-way for County Road 500 North and State Road 9 are not vacated.
2. Any right-of-way for Deborah Drive is not vacated.

Mr. Hodges seconded, and the motion passed 9-0.

Mr. Western asked Mr. Bilger what the next steps would be in vacating the Deborah Drive right-of-way. Mr. Bilger stated that right-of-way vacations start as an application through the Engineering Department and then go to the County Commissioners for potential consideration and adoption as an ordinance.

OTHER BUSINESS

RESIDENTIAL CODE REVIEW

Mr. Bilger asked the Commission if it had any questions about the proposed residential districts reviewed during last month's regular meeting.

Mr. Bilger stated that there appears to be a pressing need for a new residential district, and offered some potential new residential districts for the Commission to consider in the future: Estate Residential, Suburban Residential, and Village Residential.

Estate Residential would include new large lots of at least five acres that may be resubdividable and would have permitted uses similar to those currently available in properties zoned AG, Agricultural.

Suburban Residential would include prototypical suburban development and would have permitted uses similar to those currently found in the RR, Rural Residential, zoning district. Some members of the Commission expressed concern about proposed lot sizes, setbacks, and potential conflict with Objective 1.6 of the County Comprehensive Plan that calls for protection of rural character.

Village Residential would include development typically found in historic town areas such as Coesse, Collins, Etna, and Laud, with relatively smaller minimum lot sizes often found in these communities, and provide an opportunity for neo-traditional neighborhood development.

Mr. Bilger added that the LR, Lake Residential, zoning district could be subject to some changes, such as adding accessory dwelling units along with a proposed minimum size for such units.

Mr. Wolfe asked for a county map that would provide examples from around the county of development that would be similar to the proposed new districts.

Mr. Woodmansee stated that the Estate Residential district minimum lot size of five acres leaves the potential for a lot of wasted land, and asked if there is precedent for this minimum lot size from any other jurisdictions in the surrounding area. Mr. Bilger stated that there is precedent for this minimum lot size in other jurisdictions.

Mr. Woodmansee asked how the proposed 6,000 sq. ft. minimum lot size listed for LR compares to lot sizes of existing LR-zoned properties. Mr. Bilger stated that currently the minimum lot size is 10,000 sq. ft., but that lot sizes of legal nonconforming LR-zoned lots range widely. Mr. Bilger added that one of the intents of lowering the minimum lot size for LR-zoned properties is to reduce the number of legal nonconforming properties.

Mr. Bilger stated that this discussion to this point has focused on district standards, but that it could be expanded to include discussion of development standards such as landscaping and architectural.

Mr. Bilger and the Commission further discussed the proposed new districts, their intent, and development standards.

Mr. Western stated that, of the proposed new districts, the Suburban Residential district appears to be the one that currently has the highest demand in the marketplace.

Mr. Wolfe stated there is some demand for development that would fall within each of the proposed new districts, and that he would like to see data for market demand and proposed construction.

Mr. Bilger stated that the proposed new districts provide developers and homebuilders with options and that this does not necessarily involve a change to the zoning map.

Members of the commission generally expressed that the proposed districts could be good for the county and that further discussion needs to occur prior to holding any public hearings on the matter.

Mr. Bilger stated that the next steps in residential code review will include an examination of the minimum main floor area for secondary dwelling units and a comparison of the district standards for the proposed new districts to comparable existing lots and structures across the county.

ADJOURNMENT

Mr. Wright declared the meeting adjourned at approximately 8:04 P.M.