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LORI L. AUSTIN
WHITE COUNTY RECORDER

APC MEETING – January 13, 2020

The White County Area Plan Commission met Monday, January 13, 2020, at 6:00 p.m. in the Commissioners' Meeting Room, Second Floor, County Building, Monticello, Indiana.

Board Members Present: Charles Anderson, James Annis, Abbey Gross, Ralph Hasser, Sid Holderly, Richard Lynn, Doug Pepple, Stacy Selagy, Mike Smolek, Denny Sterrett & Brad Ward. Absent members were: None

Planning Department Representatives: Joseph W. Rogers, Executive Director; Annette Sipkema, Office Administrator; Tina M. Tiede, APC Secretary; and Makenzie Martin (Attorney)

Registered visitors were: *See attached*. The meeting was called to order by APC President, Charlie Anderson.

OPENING BUSINESS:

1. **Election of Officers:** Current Officers are President-Charles Anderson, Vice-President-Michael Smolek. Board Member Doug Pepple made a motion to nominate Charles Anderson to remain President and Michael Smolek to remain Vice-President. Board Member Richard Lynn seconded the motion and the Board approved unanimously.
2. **Appointment of Secretary:** Current Secretary-Tina M. Tiede. Board Member Brad Ward made a motion to nominate Tina M. Tiede to remain as Board Secretary. Board Member Jim Annis seconded the motion and the Board approved unanimously.
3. **Tech Committee Member:** One of the current Tech Committee Members, Don Ward, is unable to continue to serve for age and health related issues. Director Rogers asked the Board to consider replacing Don with the County Surveyor, Brad Ward. There was a motion by Board Member James Annis and a second by Board Member Abbey Gross to nominate Brad Wad as the new APC Tech Committee Member. Approved unanimously, so moved.

Approval of The Minutes: There was a motion by Board Member Brad Ward and a second by Board Member Jim Annis to approve the meeting minutes of the 11/12/19 APC Regular Meeting. Approved unanimously, so moved.

REZONES:

- 1) **#1122 – Owner: James & Mary Rhone; Applicant: same;** The subject property is identified by: O'CONNORS RIVERSIDE ADD TRACT 80' X 135' NE COR LOT 3 PLAT A; Union Township; commonly known as: 415 E Washington St., Monticello, IN 47960. The proposed zoning map amendment involves consideration of a change of the properties zoning district from: R-2 (Single & Two-Family

Residential) to B-2 (General Business). The proposed rezone is to bring the parcel into compliance with the actual use.

Originally platted as part of O'Connor's Riverside Addition, recorded on May 6, 1922. The subject parcel was platted as a 100' X 135' tract of land. In 1947, the subject parcel was sold; however, the owner retained a 20' wide strip of land on the west side of the parcel for purposes of ingress and egress. This access lane is now known as George Ct. This action resulted in the current 80' X 135' parcel, approximately 10,800 sq. ft. This area of the subject site exceeds the minimum lot size in a B-2 district which is 10,000 sq. ft with sewer. The Staff believes the site would be able to meet the developmental requirements of the B-2 district.

The applicant, James Rhone, applied for a sign permit for the comic book store earlier this year and was informed that the parcel would require rezoning to bring it into compliance with the new use (Retail Establishment). Retail Establishments are not allowed in an R-2 district under the White County Indiana Zoning Control Ordinance, Appendix A Official Schedule of Uses. Sign permit #326 was issued on August 21, 2019, but was held from release until the site was rezoned. The Staff did not receive any further communications from the owner, so the sign permit was rescinded on September 26, 2019. Subsequently, the owner applied for the rezone scheduled to be heard on Jan 13, 2020.

The Future Land Use map indicates a desire for Residential Zoning with Commercial uses near US Hwy 24. The mix of residential and business uses within the vicinity indicates that the proposed use will be compatible with the general area. The subject site is in close proximity to other B-2 district parcels.

Director Joe Rogers stated that the office did not receive any public communication related to this request, either in favor or against.

James Rhone was in person to represent the rezone request.

With no questions, ballots were passed out by Makenzie Martin.

Ballot Summary:

- 1. The proposed rezoning is consistent with the goals, objectives, and policies of the White County Strategic (Comprehensive) Plan and any other applicable planning studies and reports, as adopted and amended from time to time.** 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None
- 2. The proposed rezoning is compatible with the current conditions (e.g. existing lots, structures and uses) and the overall character of existing development in the immediate vicinity of the subject property.** 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None
- 3. The proposed rezoning is the most desirable use for which the land in the subject property is adapted.** 10 Agree; 1 No Opinion; 0 Disagree; APC Comments: None
- 4. The proposed rezoning will not have an adverse effect on the value of properties throughout the jurisdiction.** 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None
- 5. The proposed rezoning reflects responsible standard for growth and development.** 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None

President Anderson announced the results as follows:
11 votes cast – 11 in Favor; 0 Opposed; 0 No Recommendation

Rezoning request will be certified to the appropriate legislative body with a “Favorable” recommendation

- 2) #1123– Owner: Terry L Yoder, Sr.; Applicant: Bubbarist Jones; The subject property is identified by: OUT NW 27-26-3 .103 Tract 1A & Gingrich Add Pt Lot 61 & OUT NW 27-26-3 .178; Union Township; commonly known as 5258 S Gingrich Ct., Monticello. The proposed zoning map amendment involves a change of the zoning district from: R-2 (Single & Two-Family Residential) to L-1 (Lake). The proposed rezoning is limited to an area of 5,390 sq. ft. of the parent tract to allow that area to be transferred to an abutting parcel.

The applicant recorded a Memorandum of Contract for Conditional Sale of Real Estate on August 24, 2018 to purchase 5,390 square feet of the subject parcel for the purpose of transferring the 5,390 feet to an abutting parcel. However, the sending and receiving parcels are not zoned the same, preventing the office from executing the transfer. The intended receiving parcel is identified as parcel id # 91-63-27-000-005.900-020 and abuts the tract to be transferred on the north end. The staff advised the applicant that the portion of the parcel to be transferred must be rezoned in order to combine it to the abutting parcel.

The current owner states that the use of the land is impractical for him due to the elevation along the west end of the subject parcel being considerably higher than that of the east end. The owner had access to the west end of the parcel by a set of stairs and if he did not wish to take the stairs he had to walk around the curve to the south for access (about 1,000 feet ONE WAY). Mr. Yoder decided to sell the higher elevation portion of his property, which includes a detached garage, to the applicant on contract but the proper steps of the WCIZCO were not followed to execute the transaction. Mr. Jones, applicant, has since paid the contract in full and would like to combine this 5,390 sq. ft. portion to his existing lot known as 5873 E Sheridan Rd.

An R-2 and L-1 district are both residential districts with many similarities in allowed uses and setbacks. The proposed rezoning from an R-2 to an L-1 district would decrease the rear (roadside) setback 10' from Sheridan Rd compared to the setback requirement of an R-2 district (20' vs 30'). In the opinion of the Staff, the requested rezoning and subsequent tract transfer is compatible with the current conditions and overall character of the surrounding area.

Director Rogers read into the record a summary of the public communications the office received pertaining to this application. There were requests for clarification but no objections to the request for rezoning. The Staff recommended that the Board incorporate the attached condition, identified as Exhibit B (attached), to their consideration. This will require an official action of the Board. The Staff recommends the Board give the applicant no more than sixty days to execute the required administrative subdivision delineated in the condition Exhibit B.

Bubbarist Jones was in person to represent the rezoning request. Bubbarist asked for clarification on the procedure for executing the required administrative subdivision and Director Rogers explained that upon approval from the County Commissioners, he would be required to come to the Area Plan office and execute a tract transfer.

Board Member Abbey Gross made a motion to accept the attached condition, identified as Exhibit B, as part of the rezone approval. Board Member Brad Ward seconded the motion and all members approved unanimously by show of hands.

With no additional questions, ballots were passed out by Makenzie Martin.

Ballot Summary:

1. The proposed rezoning is consistent with the goals, objectives, and policies of the White County Strategic (Comprehensive) Plan and any other applicable planning studies and reports, as adopted and amended from time to time. 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None

2. The proposed rezoning is compatible with the current conditions (e.g. existing lots, structures and uses) and the overall character of existing development in the immediate vicinity of the subject property. 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None

3. The proposed rezoning is the most desirable use for which the land in the subject property is adapted. 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None

4. The proposed rezoning will not have an adverse effect on the value of properties throughout the jurisdiction. 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None

5. The proposed rezoning reflects responsible standard for growth and development. 11 Agree; 0 No Opinion; 0 Disagree; APC Comments: None

President Anderson announced the results as follows:

11 votes cast – 11 in Favor; 0 Opposed; 0 No Recommendation

Rezone request will be certified to the appropriate legislative body with a “Favorable” recommendation.

SUBDIVISIONS:

- 1) #345 – Morrow Subdivision; Owner - Morrow Robert M 1/2 Und Tod Debra M Morrow, Ty Morrow 1/2 Und; The subject property is identified by COX'S BEECHWOOD ADD; .31 PART TRACT B; West Shafer Dr., Monticello. The property is currently vacant land with no 911 address assigned. The applicant requests to divide the parcel into 2 lots.

Director Rogers read the Tech Review Committee Meeting Minutes into the record (see perm file). The staff recommended that approval of the minor subdivision be based on the conditions, as stipulated in Exhibit E (attached). These conditions provide that each subdivision lot be joined to the corresponding residential property across the street and to be jointly transferred to new owners until such time as the property owner properly amends the Morrow Subdivision Plat in compliance with the White County Indiana Subdivision Control Ordinance as amended from time to time.

Robert Morrow was in person to represent the minor subdivision petition. After some general discussion, Board Member Mike Smolek made a motion to accept the attached condition, identified as Exhibit E, as part of the minor subdivision approval. Board Member Brad Ward seconded the motion and by a show of hands, approved unanimously.

All of the conditions of the Tech Review Committee were met, see also, File #345-Morrow Subdivision Findings of Fact (attached).

The Board voted to approve the Morrow Subdivision primary plat with the condition attached (11-0 in favor).

AMENDMENTS:

1. **#A61 – Accessory Structure:** CH 4 Use Classifications and Provisions – 4.2.4 Accessory Uses & Structures and 4.3 Accessory Use Provisions; CH 14 Definitions – Accessory Structure. The purpose of this amendment is to refine the definition for accessory structures to prevent undesirable types of structures from being utilized as accessory structures in residential and commercial districts and to begin the process of segregating accessory use regulations from accessory structure standards to avoid future confusion.

Director Rogers reviewed the amendment with the Board. Robert Morrow addressed the Board with concerns related to the amendment. Mr. Morrow feels that larger lots outside of the city/town limits that are zoned residential should be excluded from this amendment. Director Rogers commented that most residential properties, even in the county that are zoned residentially, are smaller lots. Most of the larger lots are zoned agriculture and those parcels are exempt. Following some general discussion, Board Member Doug Pepple made a motion to approve the amendment, with a second from Board Member Ralph Hasser. All Board Members approved by a show of hands, so moved.

2. **#A62 – Solar Farms Setbacks:** CH 7 Wind and Solar Siting Regulations – 7.17 District Regulations and Performance Standards. The purpose of this amendment is to allow development of Solar Farms on multiple adjoining sites in an efficient manner. The intention is to modify solar developmental standards to increase the marketability of White County to solar farm developers while still providing protections to residential districts.

Director Rogers asked this amendment be continued until final changes could be made after considering feedback from solar farm companies that the office has been in contact with concerning solar farm developments. The updates should be ready to be voted on by the March APC meeting. Board Member Abbey Gross made a motion to table the amendment until the 03/09/2020 APC meeting, with a second from Board Member Denny Sterrett. All Board Members approved by a show of hands, so moved.

BUSINESS:

- 1) **Transition Zoning District** – Director Joe Rogers created a proposal of a new B-5 Zoning District that would allow for low-key commercial activities such as a barber/beauty shop but restrict more intrusive commercial activities such as a regional convenience store. This would be a commercial district that is not as disruptive or as likely to cause a nuisance to nearby residential districts. The Board discussed the possible uses for this new district and how it would be restricted to commercial uses that are more conducive and compatible with residential districts. Board Member Brad Ward made a motion for Director Rogers to pursue finalize a proposal for constructing and

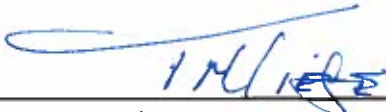
implementing a new B-5 Zoning District and then to bring it back to the Board for consideration. Board Member Ralph Hasser seconded the motion and all Board Members approved unanimously.

- 2) **2019 Annual Report**– Director Rogers provided the Board with a cover letter outlining the priority items in the report. Director Rogers discussed these priority items individually with the Board and after much discussion, the issue of proactive enforcement of certain ordinance violations was tabled for additional discussion down the road. This item will be added to the March 9, 2020 APC Agenda.


Director Rogers informed the Board the he is following various bills which are making their way through the State Legislature and which could impact zoning ordinance regulations. He will continue to update the Board as necessary.

There being no further business, Commission Member, Abbey Gross made a motion to adjourn the meeting, with a second from Commission Member, Brad Ward. The meeting adjourned at 7:18 p.m.

Respectfully submitted,



Tina M. Tiede, APC Secretary
White County Area Plan Commission



Joseph Rogers, Executive Director
White County Area Plan Commission

Document Prepared By: White County Area Plan Board Secretary, Tina M. Tiede "I, Tina M. Tiede, AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW."



White County Building & Planning

P.O. Box 851
110 N Main St.
Monticello, IN 47960
Phone: (574) 583-7355
Fax: (574) 583-4624
Web: www.whitecountyindiana.us

EXHIBIT B

To: White County Area Plan Commission
From: Joseph W. Rogers, Executive Director
Date: December 19, 2019
Subject: Condition to Rezone Petition #1123

Dear Area Plan Commission:

Rezone Petition #1123 for Terry L. Yoder, Sr, comes to you from the Area Plan Staff with a recommendation to attach the following condition:

“Within 60 days from the date of Ordinance approval by the legislative body, the applicant must execute a proper subdivide and tract transfer of the approximate 5,390 sq.ft. of land identified in the rezone request and as shown on Exhibit A of the Board member’s packets. The new tract of ground is to be cut out of the parent tract identified by PIN #91-63-27-000-000.900-020 and attached to the abutting parcel identified as PIN #91-63-27-000-005.900-020. The subdivision of land must be executed in compliance with all requirements of the White County Indiana Subdivision Control Ordinance.

Failure to properly execute the subdivide and tract transfer of land in compliance with the White County Indiana Subdivision Control Ordinance within the 60-day time period provided shall cause the rezone to be considered null and void”.

Although Mr. Bubbarist Jones and Teresa Jones entered into a contract for purchase of land from Mr. Terry Yoder as described in Exhibit A, this land tract was never legally created and does not exist as a tract of land in the records of the White County Auditor. The Staff believes County Zoning and Subdivision Ordinances dictate that this be rectified before a rezone can legally take place.

Sincerely,

Joseph W. Rogers
Executive Director
White County Area Plan



White County Building & Planning

110 N Main St. PO Box 851 Monticello, IN 47960
Phone: (574)583-7355 Fax: (574)583-4624
www.whitecountyindiana.us

FINDINGS OF FACT

FILE #	Minor Subdivision #345; Morrow Subdivision
APPLICANT	Robert M Morrow, Applicant; Morrow Robert M 1/2 Und Tod Debra M Morrow, Ty Morrow 1/2 Und
IDENTIFICATION	Parcel ID: #91-73-07-000-000.200-020; (Tax ID: #014-01760-00)
LOCATION	West Shafer Dr., Monticello, In 47960
REQUEST(S)	New Two (2) Lot Minor Subdivision
PURPOSE	The applicant wishes to subdivide the property into lots to allow for accessory structures & uses only.
HEARING DATE	January 13, 2019

The Area Plan Commission (hereinafter referred to as “Board”) of White County, Indiana, at a public meeting, properly advertised pursuant to IC 5-3-1-2 and IC 5-3-1-4, having heard testimony and reviewed evidence related to the following request(s), does now enter the following Findings of Fact:

- 1) A minor subdivision is provided for by Chapter 4 of the White County Indiana Subdivision Control Ordinance;
- 2) Legal Description: COX'S BEECHWOOD ADD; .31 PART TRACT B; Union Township, White County, Indiana (see file #345 for full legal description);
- 3) The proposed subdivision creates two (2) lots, Lot #1, Lot 2;
- 4) The property is located in an L-1, Lake District;
- 5) A Minor subdivision is a permitted use in an L-1 District;
- 6) The property is located just south of the intersection of Lake Road 24W along at the east side of West Shafer Dr., in a geographic area primarily dedicated to year-round residential purposes;
- 7) The parcel is currently vacant land;
- 8) The applicant submitted a subdivision plat dated 12/05/19;
- 9) The Tech Review Committee met to review the proposed subdivision on Tuesday, December 17, 2019 at 2:00p.m.
- 10) Executive Director Rogers advised the board that the submitted plat incorporated all changes which had been requested by the Tech Review Committee (see file for Tech Review Committee Meeting Minutes);
- 11) The staff recommended that approval be based on the conditions, as stipulated in Exhibit E (attached);

- 12) Proper notice of the proposed subdivision amendment request was given by mail to adjoining property owners;
- 13) The proposed subdivision request was advertised in the paper as required by IC 5-3-1-2 and IC 5-3-1-4;
- 14) Citizens from the community that provided feedback prior to the hearing were not opposed and no community feedback was provided during the public hearing;
- 15) The Board voted to attach the condition as provided in Exhibit E to their decision (11-0 in favor);
- 16) The Board finds that the proposed subdivision meets the standards of the White County Indiana Subdivision Control Office;
- 17) The Board voted to approve the primary plat of the proposed subdivision request subject to the condition as stated in Exhibit E.

For all the foregoing reasons, the Board gave primary plat APPROVAL of the subdivision plat identified as Morrow Subdivision, and it was so ordered, January 13, 2020.

Submitted By:



Joseph W Rogers, Executive Director
White County Area Plan



Tina M Tiede, Secretary
Area Plan Commission

WHITE COUNTY AREA PLAN COMMISSION

Joseph Rogers
Executive Director

P.O. Box 851
Monticello, IN 47960

Phone: 574/583-7355
Fax: 574/583-1593

**White County Area Plan Commission
Subdivision Petition #345
Morrow Subdivision
Condition**

As provided for under IC 36-7-4-1015, Subdivision Petition #345 approval by the White County Area Plan Commission is granted based on the following condition:

Subdivision Petition #345, known as Morrow Subdivision, is approved with the following condition attached by the White County Area Plan Commission:

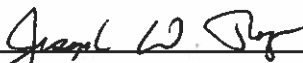
Section 1

Lot 1 of Morrow Subdivision shall be considered joined to the parcel identified as 91-73-07-000-000.400-020 (Tax Key #: 014-01780-00), commonly known as 3938 E. Lake Rod 24 W, Monticello, IN 47960 and said joined properties shall never be separated and sold until such time as the property owner properly amends the Morrow Subdivision Plat in compliance with the White County Indiana Subdivision Control Ordinance as amended from time to time

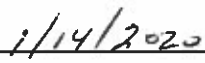
Section 2

Lot 2 of Morrow Subdivision shall be considered joined to the parcel identified as 91-73-07-000-000.300-020 (Tax Key #: 014-01770-00), commonly known as 3864 N. West Shafer Drive, Monticello, IN 47960 and said joined properties shall never be separated and sold until such time as the property owner properly amends the Morrow Subdivision Plat in compliance with the White County Indiana Subdivision Control Ordinance as amended from time to time

Certified on behalf of the White County Area Plan Commission by:



Joseph W. Rogers, Executive Director
White County Area Plan Commission



January 14, 2019

This Condition document was prepared by White County Area Plan Executive Director Joseph W. Rogers on behalf of the White County Area Plan Commission.

WHITE COUNTY AREA PLAN COMMISSION

PUBLIC NOTICE OF REGULAR SESSION

January 13, 2020 – 6:00 p.m.
2nd Floor Conference Room, White County Building
110 N Main St., Monticello, IN 47960

The White County Area Plan Commission will meet in Regular Session pursuant to Indiana's Open Meetings Law, I.C. 5-3-1-2 (b):

OPENING BUSINESS:

4. Election of Officers: Current Officers are President-Charles Anderson, Vice-President-Michael Smolek
5. Appointment of Secretary: Current Secretary-Tina M. Tiede.

APPROVAL OF THE MINUTES: Approve 11/12/19 APC Regular Meeting Minutes.

REZONINGS:

- 3) #1122 – Owner: James & Mary Rhone; Applicant: same; The subject property is identified by: O'CONNORS RIVERSIDE ADD TRACT 80' X 135' NE COR LOT 3 PLAT A; Union Township; also known as: 415 E Washington St., Monticello, IN 47960. The proposed zoning map amendment involves consideration of a change of the zoning districts from: R-2 (Single & Two-Family Residential District) to a B-2 (General Business District). The proposed rezone is to bring the parcel into compliance with the actual use.
- 4) #1123– Owner: Terry L Yoder, Sr.; Applicant: Bubbarist Jones; The subject property is identified by: OUT NW 27-26-3 .103 Tract 1A & Gingrich Add Pt Lot 61 & OUT NW 27-26-3 .178; Union Township; known as 5258 S Gingrich Ct., Monticello. The proposed zoning map amendment involves a change of the zoning district from: R-2 (Single & Two-Family Residential) to L-1 (Lake). The proposed rezone is intended for an area of 5,390 sq. ft. to allow that area to be transferred to an abutting parcel.

SUBDIVISIONS:

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AMENDMENTS:

3. #A61 – Accessory Structure: CH 4 Use Classifications and Provisions – 4.2.4 Accessory Uses & Structures and 4.3 Accessory Use Provisions; CH 14 Definitions – Accessory Structure.
4. #A62 – Solar Farms Setbacks: CH 7 Wind and Solar Siting Regulations – 7.17 District Regulations and Performance Standards

BUSINESS:

1. **Transitional Zoning District**
2. **2019 Annual Report**

Individuals requiring reasonable accommodations for participation in this event should contact the White County Title VI Coordinator a minimum of 48-hours prior to the meeting at: 574-583-4585; Leah Hull, Title VI Coordinator

