MINUTES

**WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting to be held in Commissioners Meeting Room,

Third Floor, Historic Court House,

Boonville, IN

Monday, March 11, 2024, 6:00 PM

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Richard Reid, Jeff Willis, Dave Goldenberg, Jeff Valiant, Bob Johnson, Greg Webb, and Amanda Mosiman.

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, Kim Kaiser, Assistant Director, Julie Newton and Shelli Clark, staff

**MINUTES:** President Valiant asked if everyone received a copy of the minutes from the February meeting. He asked are there any additions or corrections. He stated if not I will entertain a motion.

Amanda Mosiman made a motion to approve the February 12, 2024 minutes. Richard Reid seconded the motion and it carried unanimously.

President Valiant stated the Commissioners have requested that we move next month’s meeting to Tuesday, April 9, 2024 due to the eclipse.

There was some discussion between the Board members about this item.

Attorney Doll stated that it wouldn’t be to our advantage to have our meeting on the 8th  even though the eclipse will be over by 6:00. He said some of our items would depend on the Drainage Board and Commissioners determinations for streets and drainage. He continued the Drainage Board moved their meeting to the 9th at their meeting earlier today.

Bob Johnson stated that there is a lot of people expected to be in the town for the eclipse and the Commissioner’s didn’t want to add to the traffic, that is why the meeting has been asked to be moved.

Jeff Valiant made a motion to move the next meeting to April 9, 2024, but to keep the time at 6:00 p.m. The motion was seconded by Greg Webb and carried unanimously.

President Valiant stated that we have a couple of primary plats and a rezoning on the agenda this evening.

**PRIMARY PLATS:**

**PP-24-04: Highland Grove Subdivision:** PETITIONER: Rising Son Development, LLC by Andy Schmitz, Member OWNERS: Glenn A. & Linda L. Ingram and James R. Purviance Jr. Approximately 36.96 acres located on the south side of Tennyson Road approximately 0’ east of the intersection formed by Tennyson Road and Roth Road. Boon Township 30-5-7. *Complete legal on file*. (*Advertised in The Standard February 29, 2024)*

Jared Memering, from Morley, and Andy Schmitz were present.

President Valiant asked for a staff report.

Mrs. Barnhill stated when this plat was filed Andy Schmitz signed as the developer. She added he has since purchased part of the property and so the application has been updated to include him as one of the owners. She added they have also filed the new deed in our office. She said we have all of the green cards except 5 but we do have the white pay receipts showing they were mailed correctly. She stated the property is zoned “A” Agricultural and “CON” Recreation and Conservancy. She said there is no floodplain on the property. She continued the Commissioner’s approved their request for no road improvements to Roth Road or Tennyson Road and the Drainage Board approved their request for no drainage plans. She stated lots 5 & 6 have existing sewage disposal and they are proposing septic for the other lots but do not have the soil testing sites shown and approved. She continued so if approved it will have to be subject to percolation testing being completed, approved by the Health Department, and put on the plat.

Jared Memering stated they were out performing them today so that won’t be a problem.

Mrs. Barnhill replied okay. She stated Veolia water has capacity. She added there are 7 residential lots ranging in size from 2.50 acres to 9.84 acres with an average lot size of 5.00 acres, so the plat is in order.

President Valiant responded thank you, Molly. After ascertaining there weren’t any questions from the Board, President Valiant asked if there were any remonstrators for or against the project.

Sheila Stevens stated I live across Roth Road from the property and I am against the project because my husband and I moved from the City of Boonville to the county because we didn’t want to live in town. She said if this subdivision goes in it will be like living in the city again.

Philip Springstun stated I am not against the subdivision I just want it to be known this area is active in farming and farming was here first. He continued I own property directly across from this ground and it is all wooded. He stated I was planning on being here tonight but you know how things can happen so I dropped off a copy of a letter with Molly in case I didn’t make it. He said I didn’t make the Drainage Board meeting but I was at the Commissioner’s meeting this morning. He continued since I am here I would like to read this letter to you. He said *First of all, I am not opposing the subdivision. My purpose of speaking on this matter is as follows: I would like the individuals who may purchase these lots to be informed that they are locating in an active agriculture area. In order for farmers to plant and harvest crops in a timely matter, they are required to work long days, early mornings, all day, and sometimes late into the night. These operations can come with bright lights, noise, dust, and sometimes smells. Agriculture was located here first. So, any individuals who purchase these lots and might decide to build a house or business in this location should be aware this is an agricultural area. In a perfect world, it would be great if this letter could be attached to the deed. In the event that the property might transfer to someone else in the future. Thank you for your time and consideration.* He said meeting times for Drainage Board and Commissioners meetings were wrong on the notice. He asked is that going to cause a problem.

Attorney Doll stated he didn’t see why because they requested no drainage because of the size of the lots and there were no street plans.

Molly Barnhill stated Phillip, you were the only person to inquire about this development and I did tell you about times being different.

President Valiant asked Jared Memering and Andy Schmitz to come back to the podium. He asked would you like to address any of the concerns mentioned.

Andy Schmitz stated I plan on filing a covenants and restrictions with the plat that won’t allow cattle or hogs to be placed on the property. He said I talked to someone in the extension office and they told me it went by the weight of the animals on how many could be allowed.

Amanda Mosiman asked who did you speak with in the Extension office because I am the Extension Educator here and you didn’t speak with me.

Andy Schmitz replied it was Hans Schmitz and like I said he said it went by the weight of the animals for how many could be allowed.

Amanda Mosiman said he is with the Cover Crop Systems Initiative now.

Andy Schmitz responded okay. He stated I grew up on a farm so I don’t want it to have a lot of cows or hogs there.

Philip Springstun asked did you say cattle or livestock. He stated one of the owners already has livestock on his property. He said that would be the Purviance at the end. He continued he has livestock on his property already would you be making him get rid of it.

Amanda Mosiman asked about additional restrictions in the covenants, for example what about chickens. She stated when you have lots that size people tend to want to have chickens on their property.

Andy Schmitz stated he couldn’t recall the other covenant specifically, he just wants to keep things nice like it has been for the last 25 years.

After ascertaining there were no more questions from the Board or remonstrators for or against, President Valiant called for a motion.

Richard Reid made a motion to approve PP-24-04 subject to percolation tests being prepared, approved by the Health Department, and put on the plat. The motion was seconded by Greg Webb and carried 5-2. Amanda Mosiman and Bob Johnson voted nay.

**PP-24-05: Wyngate West PUD:** PETITIONER: Aaron Miller OWNER: Barrington Custom Homes, LLC by Aaron Miller, Member. Approximately 2.12 acres located on the east side of Old State Road 261 approximately 0’ north of the intersection formed by Old State Road 261 and Wyngate Drive being Lot 39 in Wyngate Subdivision Section A, Replat of lots l7, 18, and 39. Ohio Township Section 34-6-9. (*Advertised in The Standard February 29, 2024)*

**REZONING:**

**PC-R-24-03:** PETITIONER/ OWNER: Barrington Custom Homes, LLC by Aaron Miller, Member. To rezone 2.12 acres located on the east side of Old State Road 261 approximately 0’ north of the intersection formed by Old State Road 261 and Wyngate Drive from “R-O” Residential Office to “R-1/PUD” One Family Dwelling Planned Unit Development Ohio Township Section 34, Township 6 South, Range 9 West. *Complete legal on file.* (*Advertised in The Standard February 29, 2024)*

President Valiant stated next on the agenda is PP-24-05, which also has a rezoning PC-R-24-03.

Mrs. Barnhill stated they have sent in a request to continue until next month.

President Valiant asked was that for all three meetings or just ours.

Mrs. Barnhill replied it was for all three meetings.

Attorney Doll stated the Drainage Board continued it until next month.

President Valiant asked if there were any questions from the Board if not I will entertain a motion.

Richard Reid made a motion to continue PP-24-05 and PC-R-24-03 until the April 9, 2024 meeting. The motion was seconded by Dave Goldenberg and unanimously approved.

**OTHER BUSINESS:**

President Valiant stated the next item on the agenda is a waiver request.

**Waiver Request:** By Chad Wagner, PS with Kiesel-Wagner Survey LLC. Request to waive requirement to dedicate right of way per the thoroughfare plan on Kleiman Trust Minor Subdivision (MS-24-08)

Chad Wagner, with Kiesel-Wagner Survey, LLC was present.

Chad Wagner stated this ordinance is totally stupid and I don’t know why we even have it. He continued Posey County, Spencer County, and Gibson County don’t have it and we shouldn’t either.

Attorney Doll stated we are not in those counties; we are in Warrick County and it is in our ordinance. He continued since it is in our ordinance we have to follow it. He said if you don’t like the ordinance then you would need to talk to the Commissioner’s about having that changed.

Chad Wagner stated well you have a commissioner on the Board.

Amanda Mosiman stated why don’t we just worry about what we have in front of us for the night and if you want to pursue having the ordinance changed you can do that at a later date since that isn’t this Board.

Chad Wagner replied okay, I just want what is fair for my clients. He stated he didn’t think it was right for them because the day after this plat is recorded Mainstream can come in and put poles in that right-of-way and not have to pay them anything for that.

Attorney Doll stated that is the right of the Commissioners to grant them that. He continued it is done all over that county that way so that is nothing new. He said the ordinance states that when it is a minor subdivision and the roads are along a thoroughfare then the property would be dedicated to the County by the plat.

Chad Wagner said that isn’t fair that my client’s would have to dedicate that property when they aren’t doing any development at this time so there won’t be any changes made to North Road.

Attorney Doll asked Molly, why was this done as a minor subdivision.

Mrs. Barnhill stated it was going to be four lots and a parcelization you can only have two parcels and a remainder. She continued there were also multiple parcels involved; a parcelization can only be done on a single parcel.

Attorney Doll said so there was no way around doing a minor subdivision then was there.

Mrs. Barnhill replied no.

Chad Wagner stated that Vanderburgh County has exempt parcels when they are going to be over so many acres and the smallest lot in this is 23 acres. He stated I don’t think that it is fair if my clients are not developing this to do anything but to divide it up among family members. He continued the parent’s died and there are several heirs that they are wanting to divide the property up between. He said if they were wanting to develop it and divide it into several buildable lots then I could see it.

Attorney Doll asked is it really that big of a deal. He continued by my calculations it is on approximately a quarter of an acre. He said the right-of-way is 40’ but by the thoroughfare plan it should be 70’. He added that is only 30’ more than what it is now.

Chad Wagner replied I haven’t calculated the acreage so I don’t know what that would be and it is only 15’ because they only own to the centerline.

Attorney Doll responded okay it is only 15’ then and I have calculated it and it came up to approximately a quarter of an acre.

Chad Wagner stated why should they have to give that property to the County. He continued if they ever widen North Road then the County would take the property then, they would have to buy it.

Attorney Doll stated it sounds like this is a money thing with you.

Chad Wagner said that is not it at all I just want it to be fair for my client’s.

Attorney Doll responded well it sounds like a money thing you said that if it was dedicated that Mainstream could put the poles in and they wouldn’t have to pay them and if the County eventually decided to widen the road they wouldn’t have to purchase the land if it was dedicated. He stated that sure sounds like a money thing with me.

Chad Wagner replied no that isn’t it. He said it just isn’t fair that they have to dedicate the property but nobody else on the road does. He said I can see it if they were developing it but they aren’t it is only to transfer it to family members.

Jeff Willis stated I see his point since they are not developing the ground. He asked would they have to re-plat it to make them buildable lots.

Mrs. Barnhill replied yes, it would have to be re-platted to make them buildable lots.

Jeff Willis asked couldn’t we let it go and make them dedicate it if they ever develop it.

Attorney Doll stated I don’t think you want to open that can of worms. He continued the County went to court over this before and won. He said if you do it for this one the next person will want it done and say well you waived them for him on this plat so why can’t we waive it for mine. He said the next one might have just as good of a reason or even better but it is a can of worms I don’t recommend opening. He asked Bobby Howard wouldn’t agree to this would he.

Chad Wagner stated I talked to Bobby he is the one that told me to ask for a waiver from this Board.

Attorney Doll asked but did he approve of it. He said Molly didn’t approve it either, which is why you ended up here tonight. He said people have been dedicating right-of-way for years. He asked why are you client’s any more special than any of them.

Chad Wagner said I have said my piece that is all I am going to say.

Attorney Doll stated I don’t have a vote in this but as your attorney I cannot recommend approving this. He said the county engineer Bobby Howard didn’t like it and the ordinance says it has to be dedicated, I really just don’t see approving this to allow people to start requesting that this be waived. He stated this is in the original thoroughfare plan and people have been doing this for years. He said again I don’t vote on this it is totally up to you as members of the Board.

President Valiant asked for a motion.

Richard Reid made a motion to deny the waiver for dedicating the right-of-way for the Kleiman Trust Minor Subdivision. The motion was seconded by Dave Goldenberg and passed 6-1. Jeff Willis voted nay.

**ATTORNEY BUSINESS:**

Attorney Doll stated nothing.

**EXECUTIVE DIRECTOR:**

Mrs. Barnhill stated she didn’t have anything else.

President Valiant said I will entertain a motion to adjourn.

Richard Reid made a motion to adjourn the meeting. Greg Webb seconded the motion and the meeting adjourned at 6:43 pm.

ATTEST:

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Molly Barnhill, Executive Director Jeff Valiant, President