

**MINUTES OF THE REGULAR MEETING OF THE
MICHIGAN CITY PLAN COMMISSION
MAY 26, 2009**

The Michigan City Plan Commission met in a regular meeting in the Common Council Chambers, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on Tuesday, May 26, 2009, at 7:00 p.m. local time; the date, hour and place duly established for the holding of said meeting.

CALL TO ORDER

Chairman Hook called the meeting to order at 7:00 p.m.

ROLL CALL

Plan Director John Pugh called the roll with the following noted present: Patricia Boy, John Carr, Michael Gresham, G. Wallace Hook, Bill Phelps, and Tim Smith. Tom Milcarek, George Mock and Al Whitlow were absent. (6 present, 3 absent) Staff in attendance: Plan Director John Pugh, Attorney Steven Hale and Secretary Debbie Wilson.

Chairman Hook welcomed new Board member Michael Gresham, filling the expired term of Nolah Nasser.

Since Mrs. Nasser was serving as Vice-President, The Chair stated it would be appropriate to entertain a motion to fill the Vice-President vacancy

Mrs. Boy nominated Tim Smith for Vice-President. The nomination was seconded by Mr. Carr.

There were no other nominations. Nominations were closed and the vote taken: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Michael Gresham, Bill Phelps, Tim Smith (NAYS): None

With a vote of 6 ayes and 0 nays, the nomination was APPROVED.

It is noted for the record that a pre-meeting was held at 6:30 p.m.

APPROVAL OF MINUTES

The Chair entertained a motion for approval of the minutes of the regular meeting of March 24, 2009.

A motion to approve the minutes was made by Mrs. Boy. The motion was seconded by Mr. Phelps, with the vote as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Bill Phelps, Tim Smith (NAYS): None (ABSTAIN): Michael Gresham

With a vote of 5 ayes, 0 nays and 1 abstention, the minutes were APPROVED.

POLICY OF CONDUCT AND PROCEDURES

With no objections, Chairman Hook dispensed with the reading of the Policy of Conduct and Procedures but asked that it be included as part of the record.

The Policy of Conduct and Procedures for the Michigan City Plan Commission states that the Commission is composed of nine persons. By statute, five must vote affirmatively to approve a petition. Thus, whenever less than a full board is present, the petitioner may wish to continue his/her hearing. Anyone wishing to speak on a petition or to the board in general at the end of the meeting may do so by approaching the speaker's roster and giving his/her name and address. Comments should be addressed to the Plan Commission, not to a petitioner or remonstrator or others in the audience. The Plan Commission vote is based on the evidence presented.

PETITION(S)

The Chair called for reading of the first petition.

Mr. Pugh read **Petition 904-09 for Minor Subdivision by Arden Carlson in Michiana Shores, Michigan City (Represented by Steven Thate, Surveyor).**

Steve Thate, Surveyor, 3301 Franklin Street, Michigan City, Indiana came forward representing the Petitioner. Mr. Thate provided counsel with proof of publication and notice to adjoining property owners.

Mr. Thate explained that the Carlson's own four lots in Michiana Shores Subdivision #10 and he would like to reconfigure them into two lots. There is a home on one lot (lot 2) and the other 50' lot (lot 1) would be sold as a building site.

Mrs. Boy asked if the house shown on the drawing already exists.

Mr. Thate confirmed that 220 Pinewood is an existing home.

The Chair asked if there were any other comments or questions from the Board.

There being none, the Chair opened the hearing for public comments.

Dave Stephany, 4909 Meadow Drive, came forward to address the Commission and indicated that he lives directly west of the property in question. He asked the purpose of this subdivision.

Chairman Hook explained that there currently are four lots which are buildable. Four homes could be built on those lots. The Petitioner is asking to reduce the lots from four to two. There is an existing house on one lot and the other lot would become buildable.

Mr. Stephany stated that it is his understanding that these lots are 40' and it takes 50' to be a buildable lot.

Mr. Thate added that the lots would be reconfigured to make them 50' lots.

Mr. Pugh explained that this is an existing subdivision with prerecorded lots. Even though the 40' does not meet today's standards, they are pre-existing lots and conceivably they could be cleared making four buildable lots. In this case, the house would be on three lots and the remaining lot would become 50'.

Mr. Stephany stated that he moved there because he likes the space between homes. Most homes sit on two or more lots. He would like to see it stay that way.

Chairman Hook explained that this subdivision would reduce the density.

Mr. Pugh reiterated that if everything was cleared off the lots, there would be four lots and four homes could be built on them because they are pre-existing. The intent is to sell the house which sits on three existing lots and the remainder would be a legal lot 50' wide. Mr. Pugh added that in his opinion it is legal and meets the provisions of the ordinance.

To clarify, Mr. Smith stated that even though they are 40' lots, they are pre-existing and the owner could build four individual homes on each one of those lots. In essence, this will reduce the density and instead of having four homes, there will be the existing home on a larger lot and one buildable 50' lot.

Mr. Stephany stated that it was his understanding only the original owner of the lots could build on them as 40' lots. He did not think the Carson's are the original owners of the lots.

Mr. Pugh responded that Mr. Stephany might be confused with a covenant. The Plan Commission does not enforce covenants.

Mr. Smith clarified that once these lots are replatted, there will no longer be four 40' lots.

Attorney Hale advised that in order to legally have a minor subdivision, the lots created have to comply with all current bulk standards, which this does.

Mr. Stephany asked if he could build one home on each of his two lots as they exist now at 40'.

Mr. Pugh replied that he could if they are pre-existing platted lots.

Chairman Hook explained that there is already in place the subdivision as it exists which allows for 40' lots. Once that is changed and the lot is made 50', it negates the 40' lot. The larger lot is not in question. Mr. Hook stated that this would be a benefit to Mr. Stephany because if the house was torn down, there would be four buildable lots as it exists. They would not have to come before the Plan Commission for any approvals to build as they exist now.

There were no other public comments; therefore Chairman Hook closed the public portion of the hearing.

The Chair called for reading of the Department reports.

Mr. Pugh read:

**REPORT ON THE PETITION OF
ARDEN CHRISTENA CARLSON & CARLSON CONST. CO.
904-09**

PLANNING DEPARTMENT: The Planning Department recommends approval under the provisions of the Michigan City Subdivision Ordinance.

FIRE DEPARTMENT: Kyle Kazmierzak, Fire Marshal, had no recommendations at this time.

WATER DEPARTMENT: R. E. Russell, Superintendent, had no objections.

SANITATION DEPARTMENT: Al Walus, General Manager, had no objections.

The Chair asked if the Petitioner cared to summarize.

In summary, Mr. Thate pointed out that there will be two lots and no more than two homes.

Chairman Hook reminded everyone that if this is granted, this will be a 50' lot forever and negates anything in the past.

Mr. Stephany asked if this applies to all lots or if they have to be petitioned.

Chairman Hook explained that everything in this original subdivision plat stays the same until the configuration of said plat is changed.

The Chair entertained a motion.

A motion to approve Petition 904-09 for minor subdivision, including the Approval and Order as submitted, was made by Mr. Smith. The motion was seconded by Mrs. Boy, with the vote as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Michael Gresham, Bill Phelps, Tim Smith (NAYS): None

With a vote of 6 ayes and 0 nays, the motion was APPROVED.

DISCUSSION OF PROPOSED RULE OF PROCEDURE

Attorney Hale explained that this proposed rule is something that arose from his request. He said he finds it difficult to handle some of the more complicated notice provisions while he is trying to pay attention to the petitioners' presentation. This would assist him by requiring the petitioners to provide their affidavit of service and proof of mailing one day before the meeting.

Chairman Hook clarified that the information would have to be submitted on the Monday before the meeting, or if Monday is a holiday, the Friday before the meeting. If the information is not provided to the Planning Department, the petitioner would be notified that their petition would not be heard.

Board members agreed it was an excellent idea.

The Chair entertained a motion.

Mrs. Boy made a motion to approve the rule of procedure to state "The Petitioner shall submit their affidavit of service and proof of mailing to the Planning Department the Monday before (or Friday if Monday is a holiday) the Plan Commission meeting for review." The motion was seconded by Mr. Carr, with the vote as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Michael Gresham, Bill Phelps, Tim Smith (NAYS): None

With a vote of 6 ayes and 0 nays, the motion was APPROVED.

Mr. Pugh advised that this rule will be added to the petitioner's packet.

OLD BUSINESS/NEW BUSINESS

A motion was made by Mr. Smith to approve the findings of fact for the Habitat for Humanity Petition P-100-09 for rezoning. The motion was seconded by Mrs. Boy, with the vote as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Michael Gresham, Bill Phelps, Tim Smith (NAYS): None

With a vote of 6 ayes and 0 nays, the motion was APPROVED.

Attorney Hale also asked for approval of the Order for Petition 903-09 of Inland Real Estate for minor subdivision.

A motion was made by Mr. Carr to approve the Approval and Order for Petition 903-09 of Inland Real Estate for minor subdivision. The motion was seconded by Mrs. Boy, with the vote as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Michael Gresham, Bill Phelps, Tim Smith (NAYS): None

With a vote of 6 ayes and 0 nays, the motion was APPROVED.

PUBLIC COMMENT

None

ADJOURNMENT

The Chair entertained a motion to adjourn.

A motion to adjourn was made by Mr. Phelps – seconded by Mrs. Boy and unanimously approved.

The Chair declared the meeting adjourned at 7:40 p.m.

/s/ George Mock, Secretary