

**MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY PLAN COMMISSION  
FEBRUARY 25, 2020**

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, February 25, 2020, at 6:00 p.m.; the date, hour, and place duly established for the holding of said meeting.

**CALL TO ORDER**

President Larry Zimmer called the meeting to order at 6:03 p.m.

**ROLL CALL**

Mr. York called the roll with attendance noted as follows:

**Present:**

Bryant Dabney, Braedan Gallas, Dan Granquist, Andy Sperling, Jeffery Wright, Larry Zimmer (6)

**Absent:**

Christina Espar, Fred Klinder, Michael Gresham (3)

**Staff Present:**

Planning Director Skyler York, Planning Department Administrative Assistant Debbie Wilson

**Staff Absent:**

Attorney Steven Hale

**POLICY OF CONDUCT AND PROCEDURES**

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.

**APPROVAL OF MINUTES**

President Zimmer entertained a motion for approval of the minutes of the regular meeting of August 27, 2019.

***Motion made by Commissioner Granquist – seconded by Commissioner Gallas accepting the minutes of the regular meeting of August 27, 2019 as submitted. The roll was called, and the vote taken: (Ayes) Commissioners Gallas, Granquist, Sperling, Zimmer – 4; (Nays) None – 0; (Abstain) Commissioners Dabney, Wright – 2. With a vote of 4 ayes, 0 nays, and 2 abstentions, MOTION DENIED.***

President Zimmer entertained a motion for approval of the minutes of the regular meeting of January 28, 2020.

***Motion made by Commissioner Sperling – seconded by Commissioner Gallas accepting the minutes of the regular meeting of January 28, 2020 as submitted. The roll was called, and the vote taken: (Ayes) Commissioners Dabney, Gallas, Granquist, Sperling, Wright, Zimmer – 6; (Nays) None – 0. With a vote of 6 ayes and 0 nays, MOTION APPROVED.***

**PETITION(S)**

The chair called for the first petition, Petition 901-20: Wallace Pritz - Woodland Ave Estates requests approval of Woodland Estates, a Major Subdivision (primary plat) to create a 7-lot residential subdivision, located at the southeast corner of Welnetz Road and Woodland Avenue. Engineer/Surveyor: John Hendricks & Associates, P.C.

Tony Hendricks (Charles Hendricks and Associates, Engineering and Land Surveying, 512 Lincolnway, LaPorte IN) came forward representing Wally Pritz, LLC. Mr. Hendricks noted that he previously provided staff with copies of mailings to adjacent property owners, a map, and the legal advertisement.

Mr. Hendricks explained that Wally Pritz, LLC is proposing a 7-lot single-family residential townhome development to be located on the west side of Woodland Avenue, south of Welnetz Road to be called Woodland Estates. They are single-family townhomes, 2 per unit per lot (14 townhomes), 1,250 square feet each. All lots are over 11,000 square feet. The proposed finished cost per townhome is \$180,000; total construction cost of the subdivision is \$2.5 million, equating to tax revenue per unit of \$25,000/year once completed. Currently the tax revenue is \$186/year on this parcel, so with this development it would be 135 times the current yearly revenue.

Mr. Hendricks referred to discussion at the preliminary hearing of the technical advisory meeting noting that this lot is zoned R3A which is for higher density residential units; these are 2-family townhomes (2 residential homes). A concern raised at the technical advisory meeting was that Woodland Avenue is a heavily traveled road, so there was a request to look at access in the back. Mr. Hendricks stated that they did look at that and

if a road was put in the back it would be in LaPorte County (this parcel being split between LaPorte County and Michigan City). He pointed out that this development is only on the Michigan City parcel; there is a parcel in the back, which is in the County, where they will do their stormwater. He pointed out that if the road was put in the back there would only be approximately 50' between the movement of vehicles turning onto Welnetz Road and vehicles coming out of this development which would create more safety issues than vehicles exiting onto Woodland Avenue. Mr. Hendricks acknowledged Woodland Avenue being a heavily traveled road pointing out there are paved shoulders and the developer is giving the City an extra 10' of right-of-way in case the City would want to add an extra lane in the future. Mr. Hendricks stated another discussion at the meeting was turn-offs on the site for the garbage trucks, so they looked at other past developments and there are no turn-offs.

Mr. Hendricks stated that the land to the north of Welnetz Road has already been subdivided and developed into lots and is zoned R3A. He said the City installed stormwater control at the southeast corner of Welnetz Road and Woodland Avenue to alleviate the water going down the south side of Welnetz Road; the overflow for this development will go into that structure. It was determined by the Sanitation Department that there is enough capacity and the Water Department that there is enough capacity for water lines. Other utilities would include NIPSCO gas and electric, AT&T telephone, and Comcast cable; all utilities being present along Woodland Avenue.

Mr. Hendricks talked about the parcel in the back being in LaPorte County and the ability to annex into the City is something they would do in the future so the owners wouldn't have two tax bills.

Commissioner Zimmer asked if the driveways could be combined in pairs to eliminate some of the curb cuts.

Mr. Hendricks replied that because they are townhomes the curb cuts are partially eliminated because both homes will have one driveway coming out to Woodland Avenue. He said the owners would typically be people wanting to move in these townhomes to reduce their home size, so they are not a typical family with multiple vehicles coming in and out.

Commissioner Granquist referred to the driveways for off-street parking, asking if they plan to have garages or anticipate parking along Woodland Avenue.

Mr. Hendricks assured there is no parking along Woodland Avenue, stating that these will all be two-car garages per unit. He said the owners typically will have one car and park it in the garage, noting that it would be like the Suburban Estates Subdivision.

Commissioner Dabney asked if these driveways would lead out to Woodland Avenue or if there would be an entrance to get into the subdivision.

Mr. Hendricks replied that they looked at the ability to have an entrance off Welnetz Road to access this subdivision but felt it would be a safety issue because people turning off Woodland Avenue northbound to Welnetz Road eastbound would only have 50' to where the access would be. He said they felt that would create a far more dangerous safety condition than having them come out onto Woodland Avenue. He said the intent is for them to pull onto Woodland Avenue in a forward motion rather than a reverse motion. Mr. Hendricks explained that typical driveways are 20' wide but because these are 2-car garages, these driveways are 40' wide. He commented that typically when they design a driveway that someone has to back up into and turn around, they would give them a 30' turning movement radius. There will be seven driveways off Woodland Avenue.

Commissioner Granquist confirmed that the expectation is that the cars would turn around in the driveway and pull forward to exit the property.

Mr. Hendrick stated that the safest movement would be for them to forward out onto Woodland Avenue.

Commissioner Zimmer asked why the units are located so close to the road, asking if there is a way to push them back.

Mr. Hendricks provided Commissioners with an updated drawing, acknowledging that they did push them back to give the City future right-of-way and to allow more yard. He pointed out that lots need to be a minimum of 10,000 square feet in an R3A; these are all over 11,000 square feet. He said if this were approved tonight, they would ask for relief from frontage; R3A requires 100', they are asking for 90'.

Mr. York referred to Zoning Ordinance section 05.03(h) and 05.04(t) Single Family Detached and Two-Family Lots, wherein lots shall meet the lot area, width requirements, and dimensional requirements of the R1D Single Family Residential District. Requirements of the R1D is 50' frontage, lots size 5,000 square feet (this development exceeding that). As such, Mr. York said they would not need the variance to meet the 10,000 square feet and 100' frontage. Mr. York stated the side yard setback is 5'; front yard 20'; back yard 20'; and side street yard 20', so Lot 7 will need to maintain a street side yard setback of 20' as shown on the drawing.

Mr. Hendricks confirmed that all lots have a 90' minimum frontage and are over 10,000 square feet.

Commissioner Dabney asked about the comment of a future turn lane.

Mr. York stated that right now there are no plans for a turn lane but did note that Woodland Avenue is becoming busier and could potentially grow to carry more traffic.

Mr. Hendricks acknowledged that they are just allowing the right-of-way in case the City wanted to do that in the future.

Mr. York confirmed that the developer would dedicate the extra land to the City to possibly be used as right-of-way at a time in the future to upsize the road.

City Engineer Jeffrey Wright stated that he also did not know of any plans to widen the road at this time.

Mr. Hendricks stated that if approved, this development would dedicate 15' extra feet to the City.

Commissioner Wright pointed out that this whole lot drains south to north.

Mr. Hendricks confirmed that was correct.

Referring to the drawings, Commissioner Wright asked if there is an inlet.

Mr. Hendricks replied that there is an inlet at the southeast corner of Welnetz Road and Woodland Avenue, and there is also an inlet that the City installed further east on Woodland Avenue with a beehive basin in the ditch to collect all the water on the south side of Welnetz Road running to the west. Mr. Hendricks stated that is where any water would flow after the 100-year flood. They will hold all water on site with 100 year, plus a little more.

Commissioner Zimmer asked Mr. York if sidewalks will be asked for.

Mr. York replied that it is required for subdivisions, but the Plan Commission has the power to waive it if those so choose to.

Commissioner Zimmer asked if they are shown on the drawings.

Mr. Hendricks replied that they did not depict the sidewalk on the drawings, but the sidewalk would be located inside on the City right-of-way. They will also have the tree plantings as required by the City. The lighting (that is not required) will be standard lights on the houses – two lights for every garage.

Mr. York stated that they are not required to put in streetlights, although it will create residual light from the garages.

Commissioner Granquist asked where the sidewalks would lead to and from, and if they would simply be in front of these 7 lots then terminate at Welnetz Road and the south end of the development.

Mr. Hendricks stated that is where they would be required.

Mr. York stated that the sidewalks may not go anywhere now but explained that in the future if the street is widened the City could put sidewalks in and connect to what is existing; it is just good planning.

Commissioner Wright inquired into the streets and if Woodland Avenue is generally flat.

Mr. Hendrick replied that it is; the site distance is a minimum quarter mile each way at each driveway.

Commissioner Wright asked if there are any obstructions to the one nearest to Welnetz Road.

Mr. Hendricks replied that that are some telephone boxes and a cable box but no poles at that location.

If there was access to rear of the properties on the east end abutting the county property, Commissioner Granquist questioned if the access road would be partially on City and partially on County property.

Mr. Hendricks stated that at the technical advisory meeting the question was if access could be put in the back and run everyone to the house in the back. He said if they did that it would be on County property (east end). But when it came out on Welnetz Road it would only be 50' from where the radius ends that those people are making their movements off Woodland Avenue turning onto Welnetz Road. He said it is a question of which side of the access is the safest. He said they feel there would be more safety issues putting access off Welnetz Road rather than Woodland Avenue.

Commissioner Wright agreed, commenting that if a vehicle slowed down there could be the potential for a rear end collision.

Commissioner Granquist referred to the boundary line identifying the city limits running through the properties, acknowledging that each parcel is in city and county.

Mr. Hendricks stated that this subdivision only deals with the city, although in the future if they annex to the city, they will automatically get that because they are the owners of those two parcels.

Mr. York stated that when this process was first started, they talked about running them at the same time, but it would be too much to keep up with it. So, at this time they are just asking for the city lots and then will go back to the Plan Commission at the County level if they so choose to subdivide again.

Mr. Hendricks stated that LaPorte County struck out the part of the ordinance that did not let people split ground. In LaPorte County you can cut any piece of ground you want out of any piece of ground you own, although it does not make it buildable. In this subdivision these people would own this lot and another piece behind them and will have two tax id's and receive two tax bills. Mr. Hendricks said they did not want to run congruently the annexation and the subdivision approval through this Plan Commission and City Council at the same time, although they would expect to run through the annexation process with the City Council as soon as they are approved for this subdivision by the Plan Commission, then amend the plat as an administrative plat to give these people the extra piece of land.

The Chair called for Department reports.

Mr. York read the staff report (attached hereto and made a part of this record [1]) noting that there currently are not the correct certificates required for primary plat approval and he therefore recommended continuing the petition. Mr. York read the Fire Department report (attached hereto and made a part of this record [2]) indicating their concerns with the driveway layout and safety of residents backing out onto Woodland Avenue. Also indicated were concerns with refuse removal and business traffic across the street. Mr. York read the Sanitation Department report (attached hereto and made a part of this record [3]) referencing compliance with IDEM Rule 5 and Michigan City Ordinances regarding stormwater pollution prevention as well as requiring the installation of 14 individual laterals and taps. Mr. York read the Water Department report (attached hereto and made a part of this record [4]) indicating water is available for water service taps to be paid by the developer. The Attorney's report is attached hereto and made a part of this record [5]).

Commissioner Zimmer noted that they have already started cutting down some of the trees. He asked if there is a plan to preserve some of the trees at the rear of the building's sites, or if they are going to clear cut everything.

Mr. Hendricks replied that they typically cut all the trees they need to; if there are any trees, they can save they would like to save them. He said because they are small lots and the buildings are being moved back further, they will most likely lose 90% of the trees, although he said they will replant trees.

Mr. York pointed out that they have not clear cut the lots, stating that it looks like only the smaller trees were removed.

Commissioner Granquist stated that the trees should be removed near Woodland Avenue for visibility.

Mr. Hendricks agreed stating that by doing so you would get the bonus of safety by removing the trees at Welnetz Road and Woodland Avenue.

Commissioner Zimmer stating that he was referring to the ones in the back on the county property.

Mr. Hendricks said it will be worse for the trees in the back because that is where the stormwater is stored. He added that it costs money to remove trees, so if they don't have to take them out, they won't.

Mr. York pointed out that the City has no say in the County property.

Commissioner Dabney asked if a tree survey will be done.

Mr. York replied that typically a tree survey would be submitted to staff. Anything 12' outside the building footprints can be taken down. There are other factors and removal also depends on rot, species, etc. The developer would indicate which trees are remaining based upon the position of the house along the lot and the entrances.

Commissioner Dabney asked if the ones more than 8" in diameter would have to be replaced somewhere else within the city if they cannot be replaced on the property.

Mr. York replied that is correct, or they would pay an assessed fee.

Commissioner Granquist asked if that would be an approval process with other agencies outside the Plan Commission.

Mr. York replied that if they are planning on clear cutting right now, then the survey would be needed before the primary plat is approved. He pointed out the Plan Commission can condition approval upon submission of a tree survey at time of permit.

Mr. Hendricks pointed out that they still have construction plans to submit to be approved by the Planning Department and City Engineer.

Mr. York acknowledged that there are still more steps to be taken between primary and secondary plat approval.

Commissioner Granquist asked what the Petitioner's request is tonight.

Mr. Hendricks stated that they are seeking primary plat approval so they can move forward to construction plans, and the trees and the stormwater either bond or build before the developer can build houses or get to secondary plat. The developer still must come back before the Plan Commission for secondary plat approval which

requires the developer to have other steps in place before the Commission moves on to secondary plat approval.

Regarding the issue of certificates on the primary plat mentioned by Mr. York, Mr. Hendricks stated that he reviewed the ordinance and the certificates look like they are for the secondary plat.

Mr. York stated that they are to be provided at primary plat as referenced in the list of things that need to be on primary plat.

Mr. Hendricks assured they could provide that on the primary plat. He said if they receive approval from the Commission tonight, they can move forward to construction plans which requires the Planner and Engineer to approve all these things before moving forward to the secondary plat with the Plan Commission.

Mr. Granquist referred to reference being made in a department report about vehicles backing out of the driveway. He asked Mr. Hendricks if he has any comments regarding that.

Mr. Hendricks stated that they did review those reports and because of those concerns being raised they wanted to make sure vehicles could come out onto Woodland Avenue in a forward motion. He said they also looked at a potential back access off Welnetz Road but felt safety outweighed that option. Mr. Hendricks also addressed concerns with traffic as well as trash pickup.

Commissioner Granquist asked how long it would take for Mr. Hendricks to get the certificates on the primary plat.

Mr. Hendricks replied that he could get them on the primary plat in a day.

Commissioner Wright commented that a decision for approval has basically come down to a matter of the certificates and the tree survey.

Mr. Hendricks stated that if the Commission approves this pending the certificates and tree survey they could continue onto the next phase of construction, certificates, tree survey, and either bonding or building the subdivision before coming back to the Commission.

Commissioner Zimmer asked if the plans would show how many new trees will go in and their location.

Mr. Hendricks indicated that they will show on the detail approximately where they expect the trees/deciduous plants as required by ordinance as well as the decks,

remaining trees, how much space is left between the County land and the pond, where the trees will be located in the front, and which trees will remain in the back.

Mr. York stated that he wanted it to be clear his reason for continuance is that he does not want to make a recommendation to the Commission for something that is not complete. He said the Commission has the option of putting a condition their approval, pointing out that there still is another step and other reviews as a stopgap measure.

The chair entertained a motion.

***Motion by Commissioner Granquist – seconded by Commissioner Gallas approving Petition 901-20 for primary plat subject to supplying the required certificates on the primary plat.***

The chair opened the meeting to public comments.

Paul Applegate, Applegate and Co. CPA's, located across the street from the subject site, stated that he is in favor of the project but has concerns about the number of cuts onto Woodland Avenue. He said his office has been at that location for 30 years noting that the traffic has gotten progressively worse. He said they gave the City 30' of depth the entire width of their lot in case the City wanted to widen Woodland Avenue or put in a turn lane. He acknowledged the numerous accidents on Woodland Avenue and the fact that cars go very fast. He pointed out that the people who will be living in this development will be senior citizens and he would question their driving ability decreasing with age and if it will make a bad situation even worse. He encouraged the Plan Commission to work with the developer to see if there is an alternative to these cuts onto Woodland Avenue. He added that when they built their office building there was discussion about them only being allowed one cut onto Woodland Avenue and having an inside road to connect all the offices, but they were eventually allowed cuts for each office building.

Commissioner Zimmer asked Mr. Applegate if he feels the traffic is higher there right now because of the construction on Highway 20.

Mr. Applegate replied that he did not think so as it has always been high; people come down Coolspring Avenue and cut down Woodland Avenue to get to Highway 20. He encouraged the City to widen it to four lanes or at least have a turning lane. He said he has seen traffic backed up from Highway 20 to their office. He strongly suggested looking at alternatives.

Wallace Pritz, 9149 W. Summit Court, Michigan City, IN, stated that he would like to see the City look into the possibility of limiting several curb cuts from the businesses and make them have a reciprocity agreement so that the traffic can move through the parking lots to its specific points that the cars could access from the business onto

Woodland Avenue. He said it could be lined up with Welnetz Road; the traffic could go through the parking lot and then go east across Woodland Avenue onto Welnetz Road and disburse from there. He said he also understands some of the property in the back could be connected to the residential neighborhood (Barker Woods) and traffic could exit onto Barker Road, which would eliminate a lot of the traffic problems. Mr. Pritz commented that the businesses have six entrances; his development will have seven with a very minimal amount of traffic in and out. He pointed out that Evergreen Plaza shopping center on Highway 20 only has four ingress/egress points.

Mr. Applegate countered that traffic in and out of their offices is not significant. They are not retail businesses and don't generate a lot of vehicle traffic.

There was no other public comment. President Zimmer closed the public portion of the hearing.

***With a motion and second on the floor, the roll was called, and the vote taken: (Ayes) Commissioners Gallas, Granquist, Wright – 3; (Nays) Commissioners Dabney, Sperling, Zimmer – 3. With a vote of 3 ayes and 3 nays, MOTION IS LOST.***

***Motion by Commissioner Dabney – seconded by Commissioner Zimmer to continue Petition 901-20 until staff receives all proper documentation to include the required certificates to be in place on the primary plat. The roll was called, and the vote taken: (Ayes) Commissioners Dabney, Gallas, Granquist, Sperling, Wright, Zimmer – 6; (Nays) None – 0. With a vote of 6 ayes and 0 nays, MOTION APPROVED.***

The chair called for the next petition.

Petition 902-20: JGM, LLC requests approval of a Development Plan Review, Harbour Park Resubdivision, a Major Re-Subdivision to relocate two lot lines between lots 12 and 13, and between lots 13 and 14 in Krueger Addition, located on the east side of Krueger Avenue, north of Felton Street, and south of Washington Park Boulevard. Engineer/Surveyor: Thate-GLE.

Note: Proof of notice to adjoining property owners and Affidavit of Publication in the News Dispatch was previously provided to staff.

Steven Thate (Thate-GLE Surveying, 3301 Franklin Street, Michigan City IN) addressed the Commission regarding the petition. He explained that they had platted a subdivision in 2007 of 14 lots which was approved and recorded. At the time it had 5' side building lines. The person that bought lot 12 designed a house with the 5' side building line and found out that they are now 7'. It was rezoned without him knowing it. Now, they want to move the two interior lot lines between lots 12 and 13 and lots 13 and 14, moving one

over 4' and one over 2' to allow the owner to build the house he had designed. Mr. Thate assured they are not creating any new lots; only moving the two lot lines over.

Mr. Thate noted that he received a letter in the mail from an adjacent property owner indicating that they are not for this new subdivision and want the lot lines kept the way they currently are. In response to that, Mr. Thate stated that it is a moot point because this is already a subdivision, they already have three lots, it is not creating anything more, and does not affect the neighbor at all. There will be three homes there regardless.

Mr. Thate noted the process for approval which includes the development plan review, primary, and secondary plat approval.

Commissioner Granquist commented that the lot line being moved is interior boundaries so it would not affect any neighbors.

Mr. Thate confirmed that was correct. He added that they are meeting the frontage and square footage requirements.

The chair called for Department reports.

Mr. York read the staff report (attached hereto and made a part of this record [6]) indicating the criteria for submittal and approval of a Development Plan has been satisfied and therefore recommends approval. Mr. York read the Water Department report (attached hereto and made a part of this record [7]) indicating no objections. The Attorney's report is attached hereto and made a part of this record [8]). Mr. York read into the record (attached hereto and made a part of this record [9]) the remonstrance received from Allen and Renee Gojney, 109 Washington Park Boulevard.

Commissioner Dabney acknowledged that this is just extending the amount of area that the house can be built on.

Mr. York confirmed that was correct, adding that this gives lot 12 another 4-5' of available side yard and frontage making it wider which would allow the house to be built without any variances.

Commissioner Dabney noted that people in that area have concerns about this starting to look like Beachwalk with homes being jammed in.

Mr. York explained that Beachwalk is a PUD with their own development code, zoning code, and setbacks. They have very tight side yards. Mr. York stated that if this is approved, it does not give any rights to lots 13 and 14; lots 13 and 14 would be held to the same standards as lot 12. Keeping the 5' setback for both would allow 10' between houses which is fire code.

Mr. Thate pointed out that this is 7'.

President Zimmer opened the hearing for public comments.

James Morris (205 California Avenue, Michigan City IN) stated that he is also the owner of lot 11 immediately adjacent to lot 12. He said he appreciates receiving a registered letter advising of this meeting, however it is the first he has heard of what the proposed change is. He would like the opportunity to study it because he also owns lot 4, and a variance was granted for lot 3 which disadvantaged his property by making it less valuable. Mr. Morris said this could be changing the size of available homes, possibly oversizing that house as compared to what is available on lots 11, 13, and 14. Mr. Morris said he would like the opportunity to study this more thoroughly and requested this be continued until the next meeting.

Mr. York advised that this is not primary plat approval, explaining that if the Commission approves this Development Plan there is still another month where the developer comes back to the Commission for primary plat approval. At the time of primary plat there is another public comment.

In response, Mr. Morris said this is already on track for approval. He said he would like the opportunity to review this in detail and he does not feel a one-month delay would be an issue since this is not construction season. Mr. Morris again requested a continuance.

Since this is a 3-step process, Commissioner Sperling asked Mr. Thate if this would push the construction back.

Mr. Thate replied that it would, adding that Mr. Morris would still have a month to review it before primary plat. He noted that they had 5' building lines before and now they are 7' building lines making it further away from Mr. Morris' lot.

Commissioner Wright questioned the actual constructability on the lot regarding driveway approaches and things on the hill.

Mr. Thate replied that there is an existing alley on the north side of the Washington Park Addition and there is an easement that comes off that which services those three lots. he said he believes there is already asphalt on that easement where they can access into the back of the lots; there will not be a driveway going up the hill. Mr. Thate commented that it is shown on the plat.

President Zimmer closed the public portion of the hearing and entertained a motion.

***Motion by Commissioner Granquist approving Petition 902-20 for Development Plan – seconded by Commissioner Sperling. The roll was called, and the vote taken: (Ayes) Commissioners Dabney, Gallas, Granquist, Sperling, Wright, Zimmer – 6; (Nays) None – 0. With a vote of 6 ayes and 0 nays, MOTION APPROVED.***

The chair called for the next petition.

Petition 900-20: Beachwalk Property Owner’s Association, Inc. (BPOA) c/o Anthony Novak of NLKJ requests primary and secondary plat approval of Beachwalk Preservation Minor Subdivision, located north of Washington Park Boulevard, Parcel ID 46-01-21-476-085.000-022. Represented by Attorney Anthony Novak; John A. Doyle & Associates, Surveyor.

Attorney Anthony Novak (Newby, Lewis, Kaminski & Jones, LaPorte IN) came forward on behalf of the Beachwalk Property Owners Association (BPOA) and provided proof of notice to adjoining property owners and Affidavit of Publication in the News Dispatch. He acknowledged Rachel McCormick, member of the BPOA board, being present.

Mr. Novak pointed out that on 1/28/20 the Plan Commission approved the Development Plan for the minor subdivision. He recapped that this is a 7-acre parcel off Washington Park Boulevard (the rear access to Beachwalk). It is currently undeveloped except for a small portion of the northern part of it where there is a gravel parking lot used for overflow parking. The BPOA negotiated a purchase of this land. They will divide the land in two with the southern portion being about 4 acres to go to a non-profit entity for preservation and the northern 2.83 acres will be held by the BPOA for possible future development. He said there are no concrete plans right now but there is an issue with the need for parking. Mr. Novak noted a question from the last meeting from the Fire Department on whether there is a permanent easement for rear access. To that question Mr. Novak stated that there is, providing that documentation to Mr. York.

Mr. Novak stated that their primary plat was submitted with their original application. He provided Mr. York with the final plat and asked for both primary and secondary plat approval.

Commissioner Granquist asked for assurance that there has been no change to the plat/drawings regarding dimensions or locations of easements.

Mr. Novak confirmed that nothing has changed other than the word “primary” to “final”.

The chair called for the Department reports.

Mr. York read the staff report (attached hereto and made a part of this record [10]) indicating that staff recommends approval of the primary plat as submitted and support secondary approval as well. He added that staff did receive a copy of the recorded

agreement from the BPOA. Staff and Plan Commission counsel reviewed the easement language and found that it preserves the right on the new parcel and the existing parcels.

Commissioner Wright mentioned his concern with the maintenance of the asphalt and asked if it is part of the agreement, who maintains it, and what maintenance is required at what times.

Mr. York replied that it is maintained; it is a private road/easement to be maintained by the BPOA. The language is not as prescriptive in that it needs to be remaining there; it needs to be there. It used to be a gravel road and from time to time the Fire Department would assess the road for accessibility. He said that the BPOA has since paved it and he believes they intend to keep it paved and maintained. If it falls into a state of disrepair it would be up to the BPOA to replace it.

Rachel McCormick (103 Joe Lane, Beachwalk) member of BPOA stated that a couple years ago the BPOA did pay for the road to be paved. She assured they would continue to pay for the upkeep of the road.

Commissioner Wright asked if that is all written out.

Mr. Novak replied that it is; it is in the easement itself and specifically talks about when the property was purchased out of bankruptcy that there is going to be a maintenance agreement and ultimately the grantee in that document (being the BPOA) has the responsibility to maintain it.

Commissioner Wright stated that maintaining it could be just putting down sealcoat while the road itself falls apart. He questioned the level of maintenance and what condition the road needs to be maintained at and the level of traversability of the road.

Mr. Novak stated the document itself indicates that the perpetual easement shall apply wherever the road is ultimately located with costs of maintenance expense for the easement being shared pro rata among the Grantee, the owner the burdened property, and the owners of any property which may later benefit from the use of the easement and their successors and assigns. He said the document was ultimately part of the bankruptcy and there was a sale order that was included with it, so he doesn't have the specific maintenance requirements, although Mr. Novak said the overall purpose of the access road was to provide access to the rear of Beachwalk. As of the last couple years it has gone from gravel to asphalt, so he thinks that is the overall intent of what the BPOA would do with it.

Commissioner Wright talked about scoring the roads for level of repair. He asked who sets the level of repair for that section.

Mr. Novak replied that he was not sure, stating that it is a private road so he did not think there is a repair state that ultimately needs to be maintained; it needs to be maintained but there are no specific standards that might be applicable to the City that are applicable to this private road. He said he thinks the overall intent is to maintain it for its overall purpose, which is rear access to Beachwalk.

Commissioner Gallas commented that it is for Beachwalk residents and emergency use.

Mr. Novak replied that was correct.

Mr. York commented that in the past when it got in disrepair the City would cite the BPOA in some manner for upkeep of the road because it is their private drive.

Ms. McCormick added that it is a private access road which was put in essentially for the Fire Department and for emergency access. The BPOA, without owning the road and only having an easement to use the road, took it upon themselves to pave the road which was a huge cost. She said there isn't any question of the road not being maintained. It will be maintained the same way any of the other roads within Beachwalk are maintained to the same standard. She said she does not believe the City can determine how they upkeep the rest of their private roads. She assured the road will be maintained in the same level that it is in right now because it doesn't behoove anybody in the association to have a road that is not usable or accessible.

The chair entertained a motion.

***Motion by Commissioner Sperling – seconded by Commissioner Dabney to approve Petition 900-20 for primary and secondary plat approval. The roll was called, and the vote taken: (Ayes) Commissioners Dabney, Gallas, Granquist, Sperling, Wright, Zimmer – 6; (Nays) None – 0. With a vote of 6 ayes and 0 nays, MOTION APPROVED.***

**REPORT BY DIRECTOR**

Mr. York reported that as soon as Attorney Hale gets back from vacation, they will start reviewing new petition documents. A checklist has been created as well to make it easier to go through the process from a developer's standpoint. He will bring them to the Commission for approval soon.

**REPORT BY ATTORNEY**

(No report)

**OLD BUSINESS**

(None)

**NEW BUSINESS**

(None)

**GENERAL DISCUSSION**

(None)

**PUBLIC COMMENT**

(None)

**ADJOURNMENT**

The chair entertained a motion to adjourn.

Motion to adjourn by Commissioner Granquist – seconded by Commissioner Dabney and unanimously approved. President Zimmer declared the meeting adjourned at approximately 7:30 p.m.

**ATTACHMENTS**

1. 901-20 Staff report
2. 901-20 Fire Department report
3. 901-20 Sanitation Department report
4. 901-20 Water Department report
5. 901-20 Attorney's report
6. 902-20 Staff report
7. 902-20 Water Department report
8. 902-20 Attorney's report
9. 902-20 Remonstrance from Allen and Renee Gojney
10. 900-20 Staff report

/s/ Larry Zimmer, President

ATTEST:

/s/ Christina Espar, Secretary