

**City of Evansville Plan Commission
Regular Meeting
Tuesday, May 2nd, 2023, 6:00 p.m.**

MINUTES

1. Call to Order at 6:00pm.

2. Roll Call:

Members	Present/Absent	Others Present
Mayor Dianne Duggan	P	Colette Spranger (Community Dev. Director)
Aldersperson Gene Lewis	P	Jason Sergeant (City Administrator)
Aldersperson Abbey Barnes	P	
Susan Becker	P	Jay Naatz, Nicole Naatz, Marty Hull,
John Gishnock	A	Emil/JoAnne Quast, Alvin Francis, Lisa James
Mike Scarmon	P	Ray Legris, Larry Meier, Jennifer Kraus,
Eric Klar	P	Roland/Deanna Jeans, Pat Galecki, Paula Strowski
		Sheri/Jim Ackley, Ken/Brenda Muth, Jon Roth
		Wanda Keniston, Jim Baldauf, Gail/Graham Carr,
		Kate/Bob Vredevelde, Dave Olsen, Joe Rohloff
		Randi Soldner, Kristi/Paul Jensen, Roger Berg,
		Joe Geoffrion, Derek Blume, Ryan Combs, Chris
		Vasallo, Sue/Dan White, Adam Dassow

3. Motion to approve the agenda, by Becker, seconded by Klar. Approved unanimously

4. Motion to waive the reading of the minutes from the April 4th, 2023 meeting and approve them as printed, by Becker, seconded by Klar. Approved unanimously.

5. Civility Reminder. Duggan noted the City's commitment to conducting meetings with cordiality.

6. Citizen appearances other than agenda items listed.

7. Action Items

A. Review and Action on Land Division Application 2023-0093 for a two-lot certified survey map on parcel 6-27-958.091A1 (777 Brown School Road)

1. Staff Report and Applicant Comments. Applicant not in attendance. Spranger summarized the report. The request is to make two parcels, one for each building on the current lot. Spranger is requesting an extension of the shared driveway easement in addition to a joint cross access and maintenance agreement for the common access areas. Applicant has expressed willingness for both requests.

2. Public Hearing. Mayor Duggan opened the public hearing at 6:07pm. No comments. Public hearing closed at 6:07pm.

3. **Plan Commissioner Questions and Comments.** None.

4. **Motion with Conditions.**

Motion for Common Council to approve the certified survey map for parcel 6-27-958.091A1, finding that the application is in the public interest and meets the objectives contained within Section 110-102(g) of city ordinances, with the following conditions:

- 1) *The ingress/egress easement is extended the full 183.11' length of shared property line on the side of proposed Lot 2.*
- 2) *Applicant submits a joint cross access and maintenance agreement prior to Common Council approval.*
- 3) *The final CSM and joint cross access and maintenance agreement is recorded with Rock County Register of Deeds.*

Motion by Becker, seconded by Klar. Approved unanimously

B. Review of Conditional Use Permit Application 2023-0100 for an Indoor Commercial Entertainment Use (The Opti-Mystic) on parcel 6-27-22 (18 W Main)

1. **Review Staff Report and Applicant Comments.** Spranger summarized the report, explaining that the use has been operating without a City-issue permit for a few years, having fallen through the cracks post COVID and staff turnover.

2. **Public Hearing.** Mayor Duggan opened the public hearing at 6:13pm. No comments. Public hearing closed at 6:13pm.

3. **Plan Commissioner Questions and Comments.** None.

4. **Motion with Conditions**

Motion to approve a Conditional Use Permit for Indoor Commercial Entertainment to operate a beverage shop per section 130-408 on parcel of land 6-27-22 located at 18 W Main Street, finding that the benefits of the use outweigh any potential adverse impacts, and that the proposed use is consistent with the required standards and criteria for issuance of a CUP set forth in Section 130-104(3)(a) through (e) of the Zoning Ordinance, subject to the following conditions:

- 1) *The business operator, now and in the future, shall comply with all provisions in the City's Zoning Code, as may be amended, related to sidewalk cafes. (Section 130-568).*
- 2) *Hours of operation shall be no earlier than 6am and no later than 10pm.*
- 3) *The business operator shall obtain and maintain all City, state, and county permits and licenses as may be required.*
- 4) *Any substantial changes to the business model shall require a review of the existing conditional use permit.*
- 5) *Any changes to signage, outdoor lighting, and/or building façade are subject to approval from the Historic Preservation Commission.*
- 6) *Use cannot create a public nuisance as defined by local and state law.*
- 7) *The Conditional Use Permit is recorded with the Rock County Register of Deeds.*

Motion by Becker, seconded by Klar. Approved unanimously

C. Public Hearing for Land Division Application 2023-0099 for a preliminary plat on parcel 6-27-930 (265 N Fourth Street)

Spranger explained that an application has been made but is not yet ready for review by Plan Commission. The public hearing can be held independently of the review and action.

Mayor Duggan opened the public hearing at 6:17pm.

- Lisa James, 7841 N Fifth Street. Not necessarily against it but wanted to make sure that the value of the homes proposed to be built adds to that of the neighborhood. Would also be beneficial for trees to be added/preserved.
- Randi Soldner, 434 Joshua Drive. Wondered how many of the lots would be single family homes. Spranger replied that all the homes along Fifth Street would be single family. On Fourth Street, multifamily homes would be allowed. The future land use designation for that site is mixed use. City would expect that the density of units on that parcel would be around six units per acre.
- Ms. James then asked a question about if the multifamily units would be mandated to be owner occupied. Jason Sergeant, City Administrator, clarified that the application at hand only discusses the land division, not the use of what eventually is built on this land.
- Ms. Soldner asked about the old water tower and if that was going to be taken down. Sergeant explained that the water tower is a national landmark and is not part of the land division application.
- Ms. James voiced an opinion that six units per acre was a density unlike any of the other homes in the area. Is okay with single family units, but not a three story apartment unit.

Public hearing closed at 6:22pm.

D. Closed session: Motion that Plan Commission convene in closed session pursuant to Sec. 19.85(1)(e) of the Wis. Stats.: Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed. Upon completion, Plan Commission will reconvene in open session.

E. Discussion and Action on Amendment to “Final Land Divider’s Agreement” for Settler’s Grove Review

Co-applicants Roger Berg and Dave Olsen voiced their concern that they, two thirds of the development group responsible for the Land Divider’s Agreement for Settler’s Grove, were not ready for discussion nor action to be taken on the version of the amendment that Plan Commission had just discussed. Mayor Duggan agreed to rescind the discussion. No action taken.

F. Possible Action on Land Division Application 2023-0096 for a preliminary plat on parcel 6-20-218.B (Conifer Hills, Fourth Addition)

1. **Staff Report and Applicant Comments.** Spranger explained that the land falls within the City’s extraterritorial jurisdiction. Within that area, the City has rules about what kind of land divisions can be made. The purpose of this area is to preserve tracts of land that could potentially be annexed into the City and served by City utilities. Town of Union representatives have visited Plan Commission in the past to talk about the possibility of development in the extraterritorial area. If passed, this subdivision would be the first approved by the Town since 2007 when the third addition of Conifer Hills was approved. As the current application stands, it goes against standards of the City’s Subdivision ordinance and the goals and policies of its Comprehensive Plan. Staff has tried to think of ways to approve the application in some fashion, knowing that this was of importance to the Town. One of the ways was to limit the amount of lots created. The other issue is that the City’s

Future Land Use Map identifies this area as Open Space and Conservation. This land use does not call for a prohibition on development, but that development should happen with care. To give an approval for lands planned as such, site specific analysis is requested to ensure compatibility. Soil maps and steep slopes indicate at least two factors that may be less than conducive to development. The Future Transportation Map also shows a linkage between County Road M and Territorial Road, which might not be an immediate improvement, but one that ought to be preserved 20 to 30 years in the future. Spranger explained that she had prepared for Plan Commission two possible motions to recommend to Common Council– one that provided a way for the applicant to move forward with the application while staying in compliance with City ordinances and the Comprehensive Plan; the other recommending denial of the application.

Applicant Dave Olsen noted that he was unwilling to adhere to the condition to reduce the number of lots from 17 to 7 if Plan Commission were to opt for that recommended motion.

2. Public Hearing. Mayor Duggan opened the public hearing at 6:55pm.

- Pat Galecki, 13323 W. Travis Trace, noted that prior additions of Conifer Hills included restrictive covenants and access to green space. There is concern that the amount of green space intended to remain after this plat keeps shifting to be less and less. Noted the application package did not indicate that there were covenants even though the application specifically asked for them.
- Jennifer Kraus, 7923 N. Bridle Sweet Drive. Chose to live in the Conifer Hills subdivision because of the unique nature of the homes, which were required to have varied floor plans by restrictive covenant. Worries about the effect new homes will have on the value of hers.
- Adam Dassow, attorney for the applicant, insinuated that denial of the plat would be similar to another in the state that was later overturned by the Wisconsin Supreme Court. He handed out copies of Lake Delavan Prop. Co. v. City of Delavan to the Plan Commission and staff.
- Brenda Muth, 13402 Travis Trace. Chuck and Delores Rohloff, the late owners of land predevelopment, personally approved the design of each home prior to construction. She is not sure who will be ensuring that the covenants will be honored with this new plat.
- JoAnne Quast, 7919 N. Territorial. Was told at a Town of Union meeting that there would be covenants with this next addition of the development. Was troubled there were none here tonight.
- Jim Ackley, 13224 Travis Trace. Voiced additional concerns about the lack of covenants.
- Deanna Jeans, 13344 W Forest Hollow Lane. Voice an opinion against a road being extended into the Morningridge Estates subdivision.
- Emil Quast, 7919 N. Territorial. Noted that some home were given exceptions to the covenants. He had concerns about the density of houses being allowed on the proposed plat. He would not be in favor of rows of alike houses being built in this new plat.
- Ryan Combs, Combs and Associates, spoke up and acknowledge he submitted the application to the City without the covenants.

- Roland Jeans, 13344 W Forest Hollow Lane. Echoed a concerned about another access to Territorial Road, stating that there were already too many stop signs.
- Derek Blume, 14342 W Golf Air Drive. Voiced a plea for the Town and City to cooperate in matters of development and land division for the benefit of the community. In favor of housing in the Town because it helps the tax base.
- Kate Vredeveld, 7937 Territorial Road. Echoed concerns about the lack of covenants on the land.
- Spranger passed on comments from Kathy Wiedel, 13250 W Forest Hollow Lane, and Shari Rasmussen, 13409 Travis Trace, who echoed concerns about the lack of covenants associated with the application and the density of homes.

Public hearing closed at 7:14pm.

- 3. Plan Commissioner Questions and Comments.** Duggan asked about the two possible motions. What would the Plan Commission need to do to decide between the two. Spranger and Sergeant replied that one Plan Commission member can chose to make either of the presented motions, or modify a motion, and another can second it. Then a vote could be taken.
- 4. Possible Motion with Possible Conditions**

Motion to recommend that Common Council deny application 2023-0096 for a preliminary plat on parcel 6-20-218.B, finding that the application is inconsistent with Chapter 110-230 of the Municipal Code and with the City of Evansville Comprehensive Plan by Becker, seconded by Lewis. Vote by roll call:

Lewis: Aye

Barnes: Aye

Scarmon: Aye

Duggan: Aye

Becker: Aye

Klar: Aye

Motion carried unanimously.

G. Review and Action on Conditional Use Permit Application 2023-0067 and Review of Site Plan Application 2023-0068 on parcel 6-27-559.5170 (Sienna Crest Assisted Living)

- 1. Review Staff Report and Applicant Comments.** Spranger explained that typically conditional use permits and site plans are reviewed together. The applicant still needs to submit a landscape plan. The conditional use permit can still have its public hearing and get approval while staff awaits a landscape plan.
- 2. Public Hearing.** Mayor Duggan opened the public hearing at 7:26pm.
 - Alvin Francis, 17266 County Road C, asked if the plans to widen Porter Road and replace the box culvert would interfere with these plans and if the site was in the floodplain. Reply was that the widening of Porter Road was happening just outside of this plan's boundary.
 - Derek Blume, Is there a traffic study associated with this use? Spranger replied that there was no traffic study required with this development. The park across the street will have much more traffic than the

- Jay Naatz, 379 S 7th Street, wondered about potential conflicts between this driveway and widening of Porter Road. It would narrow considerably after the box culvert with little in the way of safety.
- Jon Roth, 391 S 7th Street. Asked if there would be another meeting to discuss the site plan. Affirmative.

Public hearing closed at 7:30pm.

3. Plan Commissioner Questions and Comments.

4. Motion with Conditions

Motion to approve a Conditional Use Permit for an Institutional Residential Use to operate an assisted living facility per section 130-376 on parcel 6-27-559.5170 finding that the benefits of the use outweigh any potential adverse impacts, and that the proposed use is consistent with the required standards and criteria for issuance of a CUP set forth in Section 130-104(3)(a) through (e) of the Zoning Ordinance, subject to the following conditions:

- 1) The business operator shall obtain and maintain all City, state, and county permits and licenses as may be required.**
- 2) Any substantial changes to the business model shall require a review of the existing conditional use permit.**
- 3) Use cannot create a public nuisance as defined by local and state law.**
- 4) Plan Commission approves Site Plan Application 2023-0068.**
- 5) The Conditional Use Permit is recorded with the Rock County Register of Deeds.**

Motion by Becker, seconded by Klar. Approved unanimously

H. Public Hearing for Ordinance 2023-03, Amending Chapter 130, Article IV Landscaping Regulations.

Mayor Duggan opened the public hearing at 7:32pm. Roger Berg asked for a copy of the regulations. Spranger stated that the changes will allow larger users requiring lots of landscaping to transfer their points elsewhere on City public spaces. Public hearing closed at 7:33pm.

8. Discussion Items.

9. Community Development Report

10. Next Meeting Date:

- A. May 2nd, 2023 at 6:00 p.m.

11. Motion to Adjourn by Becker, seconded by Scarmon. Approved unanimously.