

Minutes - Goshen Plan Commission
Tuesday, May 21, 2024 - 4:00 pm
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Richard Worsham, Tom Holtzinger, Hesston Lauver, Doug Nisley, James Wellington, Aracelia Manriquez, and Rolando Ortiz. Also present were City Planner Rhonda Yoder and Assistant City Attorney James Kolbus. Absent: Caleb Morris

II. Approval of Minutes from 4/16/24 – Nisley/Holtzinger 7-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record – Holtzinger/Nisley 7-0

IV. Postponements/Withdrawals - None

V. Vacation (public hearing)

24-02V – David and Michele Runge request the vacation of an east/west alley located between 413 and 415 N 1st Street. The right of way is 16.5' in width, approximately 276' in length, extending west of N 1st Street to the river. The right of way is used as access for the two adjacent properties, but is otherwise unimproved. If the vacation is approved, the owners would like the entire vacated area to be added to the property at 415 N 1st Street, with the existing gravel to remain as their private driveway.

Staff Report:

Ms. Yoder explained the two properties adjacent to the alley are currently under single ownership. She pointed out that the west portion of the alley is unimproved, the east portion is gravel, and the alley right-of-way provides access to both properties. She explained the Traffic Commission reviewed the proposed alley vacation on April 18 and recommended approval, but voiced concerns about vehicular access to both properties if the entire vacated area becomes part of 415 N 1st Street. Utility providers were also contacted and they confirmed there are existing utilities in the public right-of-way, so a general utility easement is required. Access to the utility easement must be maintained and unobstructed with no trees, fences, structures, etc. permitted in the easement.

Ms. Yoder explained that generally when public right-of-way is vacated, title for the vacated area goes to adjacent land owners and is usually split evenly along the center line of the right-of-way. In this case, the single property owner would like the entire vacated area to be transferred to the property at 415 N 1st Street. She went on to say several items related to that request will need to be reviewed, noting the most significant is that the curb stop for water at 413 N 1st Street is in the alley right-of-way and if it is not split evenly, the curb stop would be on 415's property and that is not permitted by the Utility Department. She pointed out this alone should stop the discussion about all of the right-of-way going to the 415 property because it won't be permitted. She explained there are a couple other related items which include an apparent zero-foot north setback for the property at 413 N 1st Street. Splitting the alley would be beneficial by giving the property at 413 a more reasonable setback. Splitting the alley would also ensure both properties have vehicular access.

She explained that regardless if the alley is split or if it all goes to 415, when one of the properties changes ownership a cross-access easement will be required. The cross-access easement can't be created now because the properties are under single ownership. Part of today's recommendation is for a provision for the cross-access easement in the future.

Staff recommends a favorable recommendation to the City Council for an amended request for the vacation, highlighting the following conditions:

- The vacated area should be split evenly along the centerline of the alley right-of-way.
- The general utility easement shall be created over the vacated area.
- At the time one of the adjoining properties is transferred to a new owner, a cross-access easement shall be required.

Mr. Worsham asked if Ms. Yoder could confirm that she recommends the vacation be granted, but that the entire vacated area should not be added to the property at 415.

Ms. Yoder responded that basically it has to be split evenly because the water curb stop for 413 must remain on the 413 parcel.

Petitioner Presentation:

David Runge, 415 N 1st Street, spoke on behalf of the petitioner. He confirmed he owns both 413 and 415 N 1st Street. He stated he has a survey which shows the easement at an angle with part of the land belonging to 415 shown on the other side of the easement, but he didn't bring that survey to today's meeting.

Ms. Yoder asked him to clarify if he's saying the survey shows the south line of the alley angles; Mr. Runge agreed that is correct.

Ms. Yoder remarked we have no information on that and asked Mr. Runge to submit a copy of the survey to the Planning Office for review. She went on to say that based on our information, there's no indication that the line has shifted. If there's a different legal description it needs to be submitted because the legal description is described in the vacation ordinance and described as the alley between the two lots.

Attorney Kolbus agreed, explaining if the line is straight or crooked, it will be described in the legal description as the north half and the south half. He went on to say Ms. Yoder needs to see the survey so she can present the case at the Council meeting.

Mr. Runge used the aerial provided with the Staff Report to indicate where the water curb stop is for 413. He questioned if access must remain for 413 to access the small garage and parking area behind the house, and if so, could the remainder of the alley be added to the property at 415? He went on to say the rear portion of the alley is unimproved and there are no utilities in that area. He explained the City drops gravel every spring and it stops at the rear of the home. There is no access beyond that point.

Ms. Yoder responded that without seeing the survey, she cannot make any recommendation on what should be done. She went on to say that she feels the Plan Commission needs to act on the information they received. She further explained the Plan Commission can make their recommendation, and the petitioner can provide the survey for her to look over. The Council can then discuss if they want to make any changes.

Attorney Kolbus clarified that they might be able to go back a certain number of feet and then the remaining portion could go to the property to the north. He pointed out that without seeing a survey, he doesn't feel that Staff or the Plan Commission can make that determination.

Ms. Yoder remarked if the alley is split 50-50, there must be an easement for both properties once there is a new owner. A cross-access easement is required, but it cannot be established now because both properties have the same owner. She stated she understands that the petitioner is asking if the property farther back can be added to 415 and that might be able to happen, but they would have to determine where that would be.

Mr. Runge stated he will get more information on the location of the utilities and supply a copy of the survey for review.

Ms. Yoder remarked that the Plan Commission is not making a final decision, but will make a recommendation to the City Council. She went on to say the Council makes the final decision because this will be an ordinance that they will need to adopt. She explained the Plan Commission can act on the information they have today and make a recommendation to Council. She asked Mr. Runge to provide the additional information to the Planning Office as soon as possible so she can look it over before it goes to Council. She will then be able to make additional comments to the Council. She explained to the property owner that the Council will have this same sort of discussion and they will make the final decision.

Michele Runge, 415 N 1st Street, also spoke to the petition. She questioned if the entire vacated area can ever become part of the property at 415.

Ms. Yoder responded that the water curb stop will still be an issue and even if all the vacated area went to 415, there would still need to be an easement so 413 could access their property.

Ms. Runge stated the main reason they're here is to ask for the entire vacated area to belong to 415.

Ms. Yoder responded it will still be for their use and it can still be a driveway. She explained that if one of the properties are sold, an easement needs to be created so both properties using the driveway have legal access.

Ms. Runge noted if vacated, it becomes their responsibility to plow and maintain, and if they can't make it a private drive, there's no reason to vacate. They can let the City be responsible for maintaining it.

Mr. Wellington asked what the reason is for vacating this alley.

Mr. Runge stated they want to make this a private drive. He went on to say if they eventually sell the house at 413 this would then be a private drive for themselves. He explained there is room on the south side of the home at 413 where a driveway could be added.

Mr. Wellington asked if this would be permitted.

Ms. Yoder responded that they would have to meet certain Planning requirements and the Engineering Department would have to determine if a curb cut would be permitted. She said that she has had some discussion with them in the past regarding the requirements, but they have not provided any plans so she doesn't know if this is an option.

Audience Comments:

Matthew Lind, 407 N 1st Street, spoke to the petition. He stated the Runge's have made numerous improvements to the properties at 415 and 413 N 1st and he supports their request.

Mr. Wellington questioned how they would prevent people from using this alley for access if it becomes a private drive.

Mr. Runge stated they would like to create privacy as well as security, by adding a fence, trees, and flowers towards the vacated area in the back to help block it off.

Close Public Hearing

Staff Discussion:

None.

Action:

A motion was made and seconded, Wellington/Holtzinger, to forward a favorable recommendation for 24-02V to the Goshen Common Council, based on Staff recommendations and conditions. The motion passed unanimously by a vote of 7-0.

VI. Primary Subdivision (public hearing)

24-03SUB – Last Dance, LLC, Ryan Thwaites, Douglas W Thwaites, Nancy L Thwaites, and Abonmarche Consultants request primary approval of a major industrial subdivision, Replat of East College Ave Industrial Park, to replat the existing four-lot East College Avenue Industrial Park subdivision to add land, add new easements and modify existing easements. The subject property contains ±331.33 acres, and is generally located east of Lincolnway East and east of the railroad, on both sides of College Avenue (CR 36), zoned Industrial M-1.

Staff Report:

Ms. Yoder explained that the subdivision replat follows the applicable major or minor subdivision process. In this case this is primary approval of a 4-lot, 4-common area, major subdivision. She reminded Commission members that subdivision review is non-discretionary which means approval must be granted if conditions of the subdivision and zoning ordinance are met.

The replat will add land to the existing subdivision which was annexed and rezoned after the original subdivision was approved. She went on to say new easements must now be created, in addition to modification of some existing easements. The replat will dedicate right-of-way along College Avenue where land is being added. No new subdivision drainage plan is required and no new infrastructure is proposed. She noted some technical corrections will be required.

Two inquiries were received regarding this replat. One request was for clarification and the other asked for more details.

Staff recommends the Plan Commission grant primary approval of the Replat with the conditions listed in the Staff Report.

Petitioner Presentation:

Andrea Milne, Abonmarche, 303 River Race Drive, spoke on behalf of the petitioner. She stated she is familiar with the Staff Report and any recommended changes required by Planning Staff will be made.

Audience Comments:

Steve Miller, 63265 County Road 33, owner of the property at 16672 County Road 36, spoke to the petition. He questioned if the easement would impact his property in any way.

Ms. Yoder referred to the aerial and explained the location of the added land, noting that there is no change to what already existed adjacent to his property.

Close Public Hearing

Staff Discussion:

There was no discussion amongst Staff members.

Action:

A motion was made and seconded, Wellington/Nisley, to grant primary approval for 24-03SUB, based upon the Staff Analysis and with the conditions listed in the Staff Report. The motion passed unanimously by a vote of 7-0.

VII. Audience Items
None

VIII. Staff/Board Items
None

IX. Adjournment – 4:32 pm Nisley/Holtzinger

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Richard Worsham

Richard Worsham, President

/s/ Tom Holtzinger

Tom Holtzinger, Secretary