

**MINUTES
COLUMBUS PLAN COMMISSION MEETING
WEDNESDAY, DECEMBER 13, 2023 AT 4:00 P.M.
COUNCIL CHAMBERS, CITY HALL
123 WASHINGTON STREET
COLUMBUS, INDIANA**

Members in Person: Andrew Beckort, Laura Garrett, Dennis Baute, Dave Bush, Evan Kleinhenz, Julie Abedian, Zack Ellison, Barry Kastner, Amber Porter, Keerthi Alapati, and Tom Finke (Bartholomew County Plan Commission Liaison)

Members via WebEx: None

Members Absent: Michael Kinder

Staff in Person: Jeff Bergman, Melissa Begley, Andres Nieto, Kyra Behrman, Noah Pappas, Jessie Boshell, and Alex Whitted (Deputy City Attorney)

Staff via WebEx: Janie Meek and Ashley Beckort

In the absence of Mr. Kinder, Mr. Baute served as presiding officer. Mr. Baute opened the meeting with a brief explanation of the commission and its responsibilities as well as participation directions for the public in person and on WebEx.

CONSENT AGENDA

Minutes of the November 8, 2023 meeting (Approval and Signing).

Motion: Ms. Garrett made a motion to approve the consent agenda. Mr. Ellison seconded the motion. The motion passed with a voice vote of 9 in favor and 0 opposed.

OLD BUSINESS REQUIRING COMMISSION ACTION

None

NEW BUSINESS REQUIRING COMMISSION ACTION

PUDF-2023-004: White River Dental – A request by White River Dental to revise a Final PUD Plan to allow a 74 ft. by 20 ft. (1,480 square foot) accessory structure (solar charging station). The property is located at 2380 Merchants Mile, in the City of Columbus.

Mr. Nieto presented for the Planning Department.

Ms. Garrett asked if the applicant provided any lighting renderings. Mr. Nieto stated they did not. Mr. Ellison stated renderings were provided for the charging stations with solar panels and if any lighting were to be added, it would have to comply with the zoning regulations. Mr. Nieto acknowledged the zoning ordinance does have lighting regulations.

Mr. Beckort asked if a site plan was provided. Mr. Nieto stated that there was a site plan included with the staff report.

Mr. Kastner wanted to know if carports were specified in the PUD (Planned Unit Development). Mr. Nieto stated that carports were not specified in the PUD document for Columbus Crossing.

Mr. Kastner clarified that the reason the request is before the Plan Commission is because it is a carport and not that it is solar. Mr. Nieto stated the request is coming before the Commission because it is a

major modification of the previously approved Final PUD Plan for this site. Mr. Bergman added that particularly significant is that the applicants want to install an accessory structure in a front yard.

Brian Steinkamp and Paul Cotter with HIS Solar represented the applicant.

Mr. Steinkamp stated that there are already rooftop solar panels that provide White River Dental's power source. The additional solar charging stations would be connecting to the solar grid already in place for the site. He added that their EV charging stations would be the only ones in the area accessible to the public 24 hours a day.

Ms. Porter inquired about the angle of the panels. Mr. Steinkamp stated the panels were angled toward the south as to optimize the sun and so that during rain the storm water would flow away from the charging area into a provided gutter.

Mr. Ellison asked if any trees would be removed. Mr. Steinkamp stated that they would not.

Mr. Baute asked if it would be free to the public to charge or would there be a use fee. Mr. Steinkamp stated there would be a kiosk and the applicant would have the option to set up what they choose in regard to fees; they can even set it up to be free for their customers and charge for non-customers.

Mr. Kleinhenz wanted to know, of the three main charging types, which would be installed. Mr. Cotter indicated they would be Type 2 chargers.

Ms. Porter asked if they have seen any other companies request this canopy style of charging station for their business. Mr. Steinkamp stated that EV charging systems, when coupled with the solar panel canopies, qualify for federal tax credits that range from 30% to 50% of the total cost. He added that EV charging stations, with solar panel canopies, are becoming more popular for the economic benefits, as well as the convenience to plug in your electric vehicle and not be exposed to inclement weather.

Mr. Ellison asked if the applicant would also have to obtain approval from the Board of Zoning Appeals for this request. Mr. Bergman stated that they would not.

Ms. Abedian asked if the applicant would be required to come back before the Plan Commission if they decided to upgrade the EV chargers to a Type 3. Mr. Bergman stated he did not believe that they would unless that upgrade involved a significant change to the project's design.

Mr. Baute opened the meeting to public comment.

Kenneth Whipker, 911 Franklin Street, participating in-person, stated he was concerned that the power grid would not support EV charging if the solar panels were not producing enough power and the cost would fall on the public.

Mr. Steinkamp stated that the solar power would be connected behind the White River Dental grid connection so that any draw that may occur from the grid would be charged directly to White River Dental.

Ms. Meek indicated that, at this time, no members of the public attending via WebEx indicated they wished to speak.

Mr. Baute closed the meeting to public comment.

Mr. Steinkamp stated that the lighting would be confined to just under-the-canopy illumination, which could be equipped with a motion sensor. If the Commission desired they could just rely on the current parking lot lighting instead.

Mr. Bergman stated the applicant has addressed all questions and staff supports approval of the request.

Motion: Ms. Garrett made a motion to approve PUDF-2023-004 with a condition that, if lighting is added under the canopy, it must comply with all zoning ordinance requirements. Ms. Alapati seconded the motion. The motion passed with a voice vote of 9 in favor and 0 opposed.

Mr. Bush joined the meeting.

RZ-2023-004: Tyler Payton - A request by Tyler Payton to rezone 1.3 acres from I3 (Industrial: Heavy) to CC (Commercial: Community). The property is located at 710 South Marr Road, in the City of Columbus.

Ms. Begley presented for the Planning Department.

Mr. Baute asked if there were any sound restrictions in this zoning area. Ms. Begley stated that there are not any regulations in the Zoning Ordinance related to sound.

Mr. Bush inquired if a commercial business was permitted in an industrial zoning district or potentially allowed as a conditional use. Ms. Begley stated the applicant did have the option of applying for a conditional use instead of requesting a rezoning to commercial.

Tyler Payton represented himself.

Mr. Baute opened the meeting to public comment.

No one from the public attending in person requested to speak.

Mr. Bergman indicated that no additional members of the public attending via WebEx wished to speak.

Mr. Baute closed the meeting to public comment.

Mr. Bergman stated staff supports a favorable recommendation to City Council.

Mr. Ellison asked if there would be a lot of noise generated by the business. Mr. Payton stated that other than when moving the vehicles around there should not be noise.

Motion: Mr. Ellison made a motion to send a favorable recommendation to City Council for RZ-2023-004. Ms. Abedian seconded the motion. The motion passed with a voice vote of 10 in favor and 0 opposed.

RZ-2023-005: Rubicon Investment Group – A request by the Rubicon Investment Group to rezone 2.04 acres from CN (Commercial: Neighborhood) to CD (Commercial: Downtown). The properties are located at 1008, 1020, and 1034 Washington Street and 921 Jackson Street, in the City of Columbus.

Ms. Behrman presented for the Planning Department.

Mr. Ellison asked if there was anyone living in the house that is on the property. Ms. Behrman stated that all structures in the rezoning area are vacant.

Ms. Porter asked how many stories or floors would be in a 125-foot building. Mr. Kleinhenz stated there could be 11 or 12 floors in that height. Ms. Porter asked if the Plan Commission had authority to put a limit on the building height. Mr. Bergman indicated that Plan Commission does have the authority to apply a building height limit as a commitment during the rezoning process.

Mr. Kastner interjected that there is an exception to the 125-foot CD height limit if a building is within a ½ block of single-family residential, in which case it would be a maximum of 50 feet. Mr. Bergman indicated that these parcels are not within ½ block of any single-family residential, so that provision does not apply.

Matt Nolley, with Rubicon Investment Group, and Steve Brehob, with Banning Engineering, represented the applicant.

Mr. Nolley stated that the CD (Commercial: Downtown) zoning district would allow the development of these lots into a more feasible project from a financial standpoint.

Mr. Brehob stated that their proposed project is in line with the City's Comprehensive Plan.

Mr. Bush asked what is the proposed use of the site. Mr. Nolley replied that is not the subject for this meeting, but they are proposing residential with light commercial and a restaurant for the site.

Mr. Bush stated that all of those uses are allowed with the current CN zoning and asked the reason for the rezoning request. Mr. Nolley stated the difference is the building setbacks and height. CD will allow for a taller building and a lesser property line setback.

Mr. Ellison asked the planned height of the buildings. Mr. Nolley stated they are proposing a 5 story building. Ms. Garrett asked how many feet are 5 stories. Mr. Bush said it could be from 50 feet to 80 feet depending on ceiling height.

Mr. Bergman noted that the CD zoning district is a site development plan district. Which means the future site plans will be reviewed by the Plan Commission, with the Commission then having discretion over height, façade design, and other development features. He said that in most other zoning districts the Plan Commission would only be able to set any conditions or commitments at the rezoning process and would not have the subsequent site plan review authority.

Ms. Abedian asked if the site plan process addressed how many people would be using the site on a regular basis or is it important to know that at this meeting. Mr. Bergman stated that would be more appropriate for the site plan process. He stated that the rezoning is asking what is the correct regulatory scheme to be applied to these properties. He added that the commissioners should keep in mind when considering a rezoning request all of the development possibilities that could occur in that zoning district and not just what a particular applicant may be proposing.

Mr. Brehob stated that, although they have a project in mind, until they know more details about what zoning parameters they have to meet, they will not know the occupancy or height of the building or the square footage of the retail space. Once they have the parameters, the site plan will depict the details based on those requirements.

Ms. Garrett asked if setting a building height limit at the rezoning stage for this site would apply to any future development project. Mr. Bergman replied that if the Plan Commission has strong feelings about building height at this location regardless of what the building will be used for then setting that limit at rezoning is appropriate.

There was much discussion amongst staff and commission members regarding height restrictions already in place in the CN and CD zoning districts.

Mr. Kastner asked if this area was an historic district. Mr. Bergman stated there are historic district recognitions made near this site at the state and federal levels, but there are no historic preservation regulations locally and no zoning implications of those recognitions.

Mr. Baute opened the meeting to public comment.

Mr. Baute read aloud letters submitted by the following members of the public: Patty March Mullett, Susan Kell, Janet Schonfeld, Judy Jackson, Emery Sheffield, Sheryl Nulph, Kerri Sinibaldi, Michael Mullett, and Elizabeth (Lisa) Porter. Generally, the letter writers expressed concern about the scale of the potential development project and sought additional opportunities for public input.

Mr. Bergman explained the public notification process as provided by the Plan Commission's Rules of Procedure. A rezoning request requires letters to be mailed directly to the owner of any property within 300 feet of the site. They are sent by Certificate of Mailing, by which the post office verifies that all indicated letters are being mailed. He went on to say that, in addition to the letters, a public notice sign is posted on the site, a notice is provided on the Planning Department website, and a legal advertisement is published in The Republic newspaper.

Mr. Bergman stated that a rezoning request is determining the most appropriate set of regulations for the property regardless of any specific project or future development. The initial consideration by the Plan Commission results in a recommendation to the City Council. The City Council will then review the request over a span of 2 meetings and will make the final decision on the rezoning. He went on to say that the CD zoning district is a site development district where any project requires a site plan review by the Plan Commission, at a separate hearing.

Mr. Bush commented, in reference to the letter-writers' concerns about the lack of detailed information, that the rezoning is only the first step in the process of the applicant's anticipated development.

Dennis Tibbetts, 1637 Franklin Street, participating in-person, stated he was hoping that it would be pointed out that in order to have a vibrant downtown you need people. He stated having more people equals more fun because it will bring more choices (bars, restaurants, businesses, and so on). He added that in his opinion more apartments downtown is a good thing.

Kerri Sinibaldi, 524 10th Street, participating in-person, stated she has a problem with the process of getting information after 5 p.m. from the City's website, without someone available after business hours to call with questions. She feels potential building elevations should be made available online for rezoning projects. She added that she does not feel rezoning this site is necessary and that the developer should plan around the regulations of the current zoning.

Tom Dell, 1063 Hummingbird Lane, participating via WebEx, stated Envision Columbus encourages density in the downtown area. Having greater density will bring more interest for businesses to come downtown. He stated that he understands not everyone likes change, but this site is currently not adding anything to the community except parking. This developer's interest, if successful, could provide the desired infill to attract the much needed grocery store and additional retail and personal service businesses. He went on to remind everyone that the current request is only to rezone the property and the detailed review of the building will come later.

Ms. Meek indicated that no additional members of the public attending via WebEx wished to speak.

Mr. Nolley stated that the majority of the public concern was in the process and regarding future information that will be reviewed at another meeting; therefore, he did not have anything additional to add at this time.

Mr. Baute closed the meeting to public comment.

Ms. Porter asked if Mr. Bergman would elaborate for the public and Commission members as to what authority the boards and staff actually have when reviewing individual projects that come before them. Mr. Bergman replied that there are many different components to City government, each with a slightly different role than the other. The objective of the Planning Department and the Plan Commission are to administer the adopted city policies and regulations that apply to private development, whether that be a developer like Rubicon or a national chain like McDonald's. Whether the intended project is a multiple lot subdivision, apartment building, or retail space, those developers and the involved property owners determine the market trends and base their investment / development choices on those trends. The Plan Commission's role is to apply the applicable land use regulations and determine that what is being proposed would be suitable, physically, for the applicant's selected location. It is up to the applicant to choose what type of development to propose and the Plan Commission is to determine if that proposal is appropriate for that location based on the City's land use policies and regulations. When it comes to deciding what properties are to be developed and when, it is up to the property owner to make that decision.

Ms. Porter added that if there are topics beyond the scope of the Plan Commission that the public feels strongly about they might want to be more involved in other meetings like those of the Redevelopment Commission and City Council.

Mr. Bergman encouraged the public to contact the Planning Department with any project or process questions. The office is open Monday through Friday 8 a.m. to 5 p.m. but they can email anytime and someone will follow-up with them.

Ms. Abedian added that there are many opportunities for input and public involvement that happen in the community, such as during Envision Columbus, that provide tools for the Commission to make decisions on applications of all kinds. She added that the Planning Department has been proactive in helping the Commission understanding best practices and providing updates to the Comprehensive Plan and Zoning Ordinance based on trends and public input. She added that there are opportunities for the public to get involved, other than at a Plan Commission meeting, if they would like to see changes in the community or its policies.

Mr. Bergman addressed the procedural process if the Plan Commission was interested in continuing the request, as many of the public letters requested. Mr. Whitted stated the members of the Plan Commission may initiate a motion for continuance based on the request of public input.

Mr. Ellison stated in his opinion a continuance of the rezoning request would not meet the public expectation for site plan information for the potential development of the property.

Mr. Kleinhenz asked if there would be an opportunity to determine building height during the site plan review process or would that need to be done with a rezoning request. Mr. Bergman responded that the Plan Commission does have authority to limit building height during the site plan review of a development in the CD zoning district.

Mr. Bergman stated that, in alignment with the Comprehensive Plan and growth of the downtown towards 11th Street, from the staff's point of view, this zoning request is consistent with current development patterns and uses in the area as well as guidance from the Comprehensive Plan. Staff supports sending a favorable recommendation to City Council for this rezoning request.

Motion: Mr. Bush made a motion to send a favorable recommendation to City Council for RZ-2023-005. Ms. Abedian seconded the motion. The motion passed with a voice vote of 9 in favor, none opposed, and 1 abstention. Mr. Kastner abstained in response to the public request for a continuance to allow time for more public outreach and information.

Ms. Garrett asked if, for the site plan process, the public notification area could be extended and include a higher level of information regarding this development.

Mr. Bergman stated that the applicant has made application for the site plan review and provided some preliminary drawings that are public record. He stated these materials have been reviewed by the Planning Department and the applicant has asked for an opportunity to revise them before proceeding with that application. The materials have not yet been posted on the Planning Department website because they do not represent the final submittal and the public hearing on them has not been scheduled. The public may contact the Planning Department and view those preliminary drawings but should be aware they could change.

In regards to the notice requirements, Mr. Bergman stated that those requirements are in the Plan Commission Rules of Procedure and staff cannot deviate from them, which would introduce something arbitrary into the review process. Mr. Whitted stated that the adopted Rules of Procedure should be followed.

Mr. Bush asked when the Rules of Procedure were last updated. Ms. Begley stated it was in 2020. Mr. Bush indicated that consistency is important and the Commission should not change the Rules of Procedure on a case-by-case basis. He added that, if the majority feels strongly that the notification area should be increased for all of these type of requests, then the Rules of Procedure should be changed to reflect that increase.

Mr. Bergman suggested a list of email addresses, from all parties interested in information for this development, be collected by the Planning Department. He offered to provide project updates to those who are interested.

Zoning Ordinance Revisions Amendment – Consideration of the City Council amendment of recommended revisions to the City of Columbus Zoning Ordinance with regard to solar energy systems.

Mr. Bergman presented for the Planning Department.

Mr. Bush stated that City Council believed it was best to prohibit commercial solar facilities in the city's jurisdiction, rather than create the Commission's recommended unique option for their review, which may be legally challenged.

Mr. Baute asked if the connection line between the solar facility and the transmission line was discussed specifically by the City Council. Mr. Bush stated, if it is a utility company installing that line, the city has no jurisdiction over it. He added if the line were part of the commercial solar facility then it must meet the regulations of the zoning ordinance, including the prohibition of that use in the City's jurisdiction.

Mr. Bergman stated, in regards to utility facility exemptions resulting from Indiana Utility Regulatory Commission (IURC) authority, there is some gray area and exemptions must be vetted on a case-by-case basis. He stated that, if a public utility, like Duke Energy, is involved, there is a high probability that a line will be exempt from zoning regulations.

Frank Miller, City Council Member, stated that the Council's primary motivation was to protect the City's jurisdiction from barriers to long-term city growth.

Ms. Porter and Ms. Garrett asked for clarification regarding City Council prohibiting commercial solar in the City's jurisdiction. Mr. Bergman explained that, through the Council's amendment, commercial solar would not be listed as a permitted or conditional use in any zoning district, making it a prohibited use. Such a facility could, however, still be allowed by the BZA through a use variance. Mr. Bergman added that for any use that is prohibited there is always the option to seek a use variance.

Mr. Ellison stated that anyone who files an application prior to the effective date of the revisions would still be regulated by the current zoning regulations. Mr. Bergman stated that is correct.

Mr. Baute asked if the connecting line from the facility to the transmission line, but not the solar arrays themselves, could be allowed in the City's jurisdiction. Mr. Bergman stated the Plan Commission could suggest back to the Council an alternate amendment that excludes the facilities but allows the connection lines.

Mr. Baute said, in his opinion, prohibiting the connection lines makes Columbus appear very anti-solar. He added that it also limits commercial solar in the County jurisdiction, where commercial solar facilities are a conditional use.

Mr. Miller stated that, if the Plan Commission did want to make the connection lines allowable, it should be clear that no other solar-related uses are allowed in that same lease area. Mr. Bergman stated the zoning ordinance cannot control what people lease but it can control what is done on that property. He added that, if the zoning ordinance prohibits commercial solar facilities in the city's jurisdiction but allows the connection line, no matter how large an area is leased, it would be limited to the connection line unless additional approval from the BZA is granted.

Mr. Ellison left the meeting.

Mr. Baute opened the meeting to public comment.

Dennis Tibbetts, 11430 S Jonesville Road, participating in-person, stated he agrees that the connection lines should be allowed.

Rachel Conner, Executive Director of Hoosiers for Renewables, participating in-person, stated that she is sad to see solar energy facilities disallowed in the City's jurisdiction. In her professional opinion, prohibition of the connection lines will deter interested commercial solar developers from coming to the Columbus area. In regards to utility companies building the connection lines, they are not willing to spend the millions of dollars it takes to install those lines. They prefer the developer install those and they purchase the additional energy those facilities provide. She added that renewable energy presents a strong income diversification option for rural landowners and a strong income option for struggling rural governments.

Matt Carothers, 4800 East 300 South, participating in-person, stated he was concerned that the solar facilities would default on their promises to return the farm fields to a usable state as they have in other Indiana counties. He encouraged the Plan Commission to agree with City Council's recommended amendment.

Tim McNealy, 912 5th Street, participating in-person, stated he would like the City Council's zoning amendment to be approved as is. In his opinion, quoting a Purdue University Study, commercial solar facilities will displace 277,000 acres of farmland, decreasing the amount of income a farmer will have to invest back into the community.

Jemma King, with Swallowtail Solar, Scottsdale, Arizona, participating in-person, stated they are not against the prohibition of the solar facilities in the City's jurisdiction but it is necessary to have the connection line cross into that area to connect to the Duke Energy transmission line. She stated they are only asking for the connection line to be allowable in the City's jurisdiction.

Adam Wade, 6630 East 350 North, participating in-person, stated that above ground wires would affect his ability to crop dust insecticides on his corn.

Julie Lowe, 3615 Saddle Drive, participating in-person, stated she is in support of removing the connection lines from the prohibition. She does not want Bartholomew County being known as against renewable energy options.

Lynn Finkel, 16250 West Boulder Drive, Surprise, Arizona, participating via WebEx, stated he owns property in Bartholomew County outside the City's jurisdiction, but the decision to prohibit anything solar in the City's jurisdiction will affect his property and income. He added that he encourages all involved to eliminate the connection lines from being prohibited in the City's jurisdiction.

Peter Gray, with Swallowtail Solar, Chicago, Illinois, participating in-person, stated that the easement leases they have for connection lines are 150 feet wide. He added that the width would still allow farming on the property, or whatever else the farmer chooses to do.

Mr. Kastner stated Duke Energy's transmission line runs north to south just west of Talley Road. If the Swallowtail Solar connection line does not cross the City's jurisdiction it would result in a much longer route across the county than what is currently anticipated.

Ms. Meek indicated that no additional members of the public attending via WebEx wished to speak.

Mr. Baute closed the meeting to public comment.

Ms. Abedian stated that initially she was for the prohibition of anything related to commercial solar in the City's jurisdiction, but now feels uncomfortable prohibiting the transmission line connection which may preclude the work the County has done to allow commercial solar facilities in their jurisdiction. Mr. Bergman explained that commercial solar facilities in the County's jurisdiction are a conditional use, so the BZA may or may not approve them based on each individual submission.

Mr. Bergman stated that the commercial solar facilities themselves in the City's jurisdiction would be an impediment to future growth, but he does not believe the transmission line connection would be an impediment.

Ms. Garrett commented that she believes forcing these facilities to find alternate options for their transmission connection, rather than using a straight line through the City's jurisdiction, would create even more lines across the county. Although she does not want commercial solar facilities in the City's jurisdiction to impede growth she is not against the transmission line connections crossing the jurisdiction to help eliminate an excess of lines across the county.

Mr. Kastner stated that if a commercial solar facility is approved by the County BZA it seems counterproductive to not allow a straight connection to the main electrical grid. He went on to say he understands not wanting the large facilities in the City's jurisdiction, but to stop a transmission line connection appears to be a nullification of land use planning by the County.

Ms. Porter asked if there was a way to have just the connection lines as a conditional use in the City's jurisdiction. Mr. Bergman indicated that was possible, if they are defined as a separate use than the commercial solar facility itself.

Mr. Miller stated that, if the Plan Commission can identify an alternate where the connection lines only area allowable through the City's jurisdiction, in his opinion, the majority of City Council members would accept that change.

Ms. Porter indicated that, in her opinion, the best compromise is to create a separate use in the zoning ordinance for the transmission line connections and for that use to be conditional in the City's jurisdiction.

Motion: Mr. Kleinhenz made a motion to disapprove the City Council's amendment and to recommend that transmission line connections be established as a separate use in the zoning ordinance and made allowable as a conditional use in the City's jurisdiction beyond the city limits. Ms. Porter seconded the motion. The motion passed with a voice vote of 8 in favor and 1 opposed. Mr. Bush stated he was opposed due to the timing that allows an additional week for a commercial solar developer to possibly file an application under the current ordinance.

Appointment of a Nominating Committee for 2024 Plan Commission Officers

Ms. Porter and Mr. Baute were appointed by consensus as the nominating committee for the 2024 Plan Commission Officers.

Approval of the 2024 Plan Commission Calendar of Meeting & Filing Dates

Motion: Mr. Bush made a motion to approve the 2024 Plan Commission Calendar. Mr. Kastner seconded the motion. The motion passed with a voice vote of 9 in favor and 0 opposed.

DISCUSSION ITEMS

None

DIRECTOR'S REPORT

None

ADJOURNMENT: 7:30 p.m.

Motion: Ms. Abedian made a motion to adjourn. Ms. Garrett seconded the motion. The motion passed with a voice vote of 9 in favor and 0 opposed.

These minutes approved at the Plan Commission meeting on February 14, 2024.

_____, Presiding Officer

_____, Secretary