

PLYMOUTH PLAN COMMISSION

May 8, 2024

The Plymouth Plan Commission met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on May 8, 2024, at 7:00 p.m.

Commission President Doug Feece called the meeting to order for Commissioners Mark Gidley, Beth Pinkerton, Dan Sellers, Fred Webster, and Paul Wendel answering roll call whom were physically present. Commissioners Alex Eads, Randy Longanecker, Shiloh Carothers Milner, Angela Rupchock-Schafer and Linda Secor were absent. Others present were Advisory Member Dave Hostetler, Building Commissioner Dennis Manuwal, Jr., City Attorney Jeff Houin and Mayor Robert Listenberger. The public was able to see and hear the meeting through Microsoft Teams.

Commissioners Wendel and Gidley moved and seconded to approve the minutes of the last regular meeting on April 2, 2024. The motion carried.

The following legal notice was advertised in the Pilot Newspaper on April 25, 2024:

**NOTICE OF
PUBLIC HEARING**

The Plan Commission of the City of Plymouth, Indiana will hold a hearing on May 8, 2024 at 7:00 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters:

PC 2024-04: Edwin and Jane Yochum, 11829 Maple Rd., Plymouth, IN 46563: A minor subdivision to separate the home onto a 3.42-acre parcel and leaving the remaining 7.79-acre parcel to cropland on parcel 50-32-16-000-016.000-018, located at 11829 Maple Rd, Plymouth, IN 46563, zoned R-1, Rural Residential District

PC 2024-05: City of Plymouth, 124 N. Michigan Street, Plymouth, IN 46563: Amend the definition of Child Care Services (In Home) to correspond to the House Enrolled Act No. 1102.

PC 2024-06: City of Plymouth, 124 N. Michigan Street, Plymouth, IN 46563: Amend Article 4, Section 030, Historic Neighborhood Overlay District to have all site plans reviewed by the Plymouth Building Commissioner.

Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN and telephone #574-936-2124. Written objections to the proposal

**116
Legals**

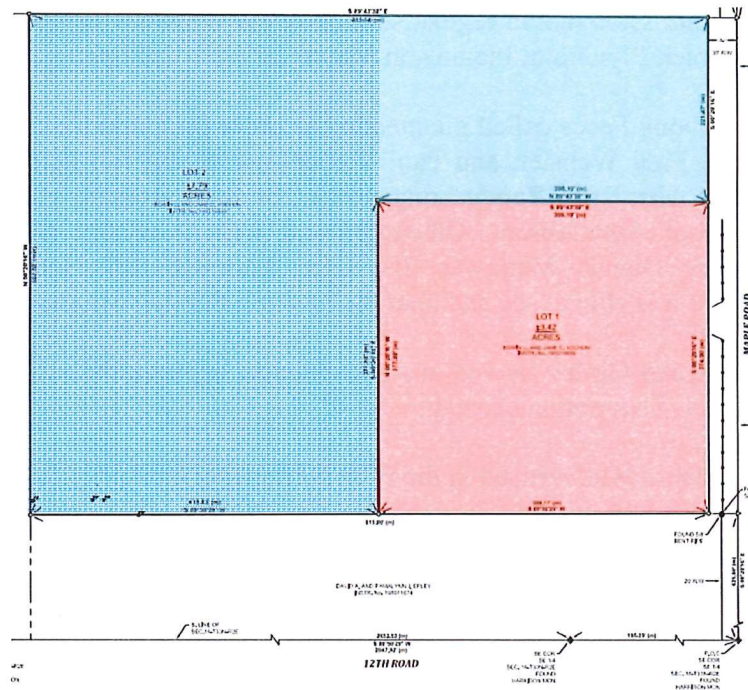
filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary.

If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948. Kyle Williams, Recording Secretary, Plan Commission, April 25, 2024

PC 2024-04: Edwin and Jane Yochum, 11829 Maple Rd., Plymouth, IN 46563: A minor subdivision to separate the home onto a 3.42-acre parcel and leaving the remaining 7.79-acre parcel to cropland on parcel 50-32-16-000-016.000-018, located at 11829 Maple Rd, Plymouth, IN 46563, zoned R-1, Rural Residential District.

City Attorney Houin explained that this request was tabled at the last meeting on behalf of the petitioner. Houin reviewed the findings of fact and the request from the applicant.

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James McLaughlin (1405 N. Michigan Street, Plymouth, IN 46563)

McLaughlin stated he is a Project Manager at Wightman Associates here in Plymouth. He explained that the Yochums had contacted Wightman in regards to this in order to split the property for separate sales. He stated Lot 2, being the farmland, is being sold to a farmer who has been farming it for several years.

Sellers asked if any right-of-way was being dedicated for roadway.

McLaughlin replied that there will be 20 feet.

Sellers asked if that was extra.

McLaughlin responded in agreeance and stated that the original property goes out to the section line which would be the center line of Maple Road and that they have dedicated 20 feet off of that section line.

Commissioners Webster and Pinkerton moved and seconded to open the public hearing. The motion carried.

There were no comments at this time.

Commissioners Webster and Pinkerton moved and seconded to close the public hearing. The motion carried.

Commissioners Sellers and Webster moved and seconded to approve PC 2024-04 as presented. The motion passed by roll call vote.

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In Favor: Gidley, Pinkerton, Sellers, Webster, Wendel, and Feece

Opposed: None

Absent: Eads, Longanecker, Milner, Rupchock-Schafer, and Secor

PC 2024-05: City of Plymouth, 124 N. Michigan Street, Plymouth, IN 46563: Amend the definition of Child Care Services (In Home) to correspond to the House Enrolled Act No. 1102.

City Attorney Houin reviewed the findings of fact of the request. He explained that the House Enrolled Act No. 1102 was legislation that was passed by the General Assembly this session and will become effective on July 1st of 2024. He stated it prompted him and Booker to look at the definitions in the zoning ordinance and what we need to adjust to be in compliance with this new legislation. He reviewed the recent change to the House Enrolled Act No. 1102 by the General Assembly, our current definition in the zoning ordinance, and our proposed amendment as seen below.

Passed by General Assembly

HOUSE ENROLLED ACT No. 1102

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-7-2-28.6, AS AMENDED BY P.L.124-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 28.6. (a) **Except as provided in subsection (c), "child care home", for purposes of IC 12-17.2, means a residential structure in which at least ~~six (6)~~ eight (8) children, or at least four (4) children under twelve (12) months of age, (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) or any child who is at least fourteen (14) years of age and does not require child care) at any time receive child care from a provider:**

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) for more than ~~four (4)~~ six (6) hours per day but less than twenty-four (24) hours in each of per day for ten (10) consecutive days, per year, ~~excluding intervening~~ not including Saturdays, Sundays, and holidays.

(b) The term includes:

- (1) a class I child care home; and
- (2) a class II child care home.

(c) A child who is:

- (1) a relative of a provider;
- (2) under the custody or guardianship of a provider; or
- (3) at least fourteen (14) years of age and does not require child care;

is not a child described under subsection (a).

Current Definition in Zoning Ordinance

Child Day Care Services (in home)

A residential structure in which no more than five (5) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least fourteen (14) years of age and does not require child care) at any time receive child care from a provider:

1. while unattended by a parent, legal guardian, or custodian;
2. for regular compensation; and
3. for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

Proposed Amendment

Child Day Care Services (in home)

A residential structure in which no more than seven (7) children, or no more than three (3) children under twelve (12) months of age, (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
for up to six (6) hours per day for ten (10) consecutive days, not including Saturdays, Sundays, and holidays.

Pursuant to IC 36-7-4-1108, if a child care home is used as the primary residence of the person who operates the child care home, nothing contained within this zoning ordinance shall be construed to:

- (1) Exclude a child care home from a residential area solely because the child care home is a business.
- (2) Impose limits on the number of children that may be served by a child care home at any one (1) time that vary from the limits set forth in IC 12-7-2-33.7 and IC 12-7-2-33.8.
- (3) Impose requirements or restrictions upon child care homes that vary from the requirements and restrictions imposed upon child care homes by rules adopted by the division of family resources or the fire prevention and building safety commission.

Houin summarized the change that the first change in the definition increased the number of children that could be cared for without falling under the child care home definition. He explained that our zoning ordinance catches what is under that limit. He stated if a Child Care Service has fewer children being cared for that it would put it under the licensing requirements so we consider that a daycare service in home and that is currently what is restricted in the Plymouth Zoning Ordinance. He stated the change we are proposing simply raises that threshold so now it is eight (8) children or more, we are proposing a change to the definition that would be seven (7) or less. He stated it keeps the same

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application of that restriction but simply changes the number of children that would qualify for that definition.

Houin summarized the second change made that it had added the three bottom statements of the proposal pursuant to IC 36-7-4-1108 as highlighted in yellow above. He stated if a child care home met the definition that we looked at earlier in the statute that it means a zoning ordinance could not restrict that child care home. He explained it stated the State licensing regulations for daycare/child care homes takes precedence and our zoning ordinance cannot change any of those requirements. He also stated that it adds the following section, "regardless of whether the child care home meets the definitions set forth in IC 12-7-2-28.6." He explained this left an open question as there is nowhere else anywhere in the statute that addresses what a child care home would be that is not required to be licensed under the child care home licensing statute. He stated after reviewing this and comparing several sections of the code, what was determined was that any child care home service cannot be restricted by the zoning ordinance if it is the primary residence of the person operating that child care home.

Pinkerton asked if there has been a problem with this or if we are trying to eliminate having a problem.

Houin responded by stating all we are trying to do is keep the zoning ordinance in compliance with State Law. He added that this was entirely prompted by a change to State Law and we are simply trying to update the zoning ordinance to be in compliance before we have a problem where there is a conflict between our ordinance and State Law.

Gidley asked if this also means that everyone will have to be licensed.

Houin responded by stating if they have eight (8) or more children, or four (4) or more children under twelve (12) months of age for a minimum of six (6) hours per day for ten (10) consecutive days, then they are required to be licensed. He explained if there were fewer children than what is required by the State Law, or they operate for less than the minimum six (6) hours per day, then State Law does not require them to be licensed. He stated that is what we are proposing for the updated definition to match those limits. He stated it would also add the statement, "pursuant to IC 36-7-4-1108, if a child care home is used as the primary residence of the person who operates the child care home, nothing contained within this construed to: 1-3."

Gidley asked if there are any other requirements that can be made in regard to other things. He provided the example of having eight kids in one yard, if the zoning ordinance could require it to be fenced.

Houin responded by stating not based upon the fact that it is a daycare service or child care service. He explained you could impose any restrictions that are imposed on other residential structures within that zone, such as setback requirements, or the restrictions that we already have with types of fencing. He stated all of those zoning requirements would still apply, just as they do for all other residential structures. He stated you cannot impose any requirements specifically addressing the fact that it is a childcare service.

Webster noted that there are no hours of operation on this. He asked for clarification that someone could have up to six kids while the parents work overnight and there would be no different restrictions

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for that. Houin agreed. Webster asked for clarification that this would be available 24/7.

Houin responded in agreeance and stated that as long as they are not required to be licensed by the State, then there are no other restrictions that can be placed on them through the zoning ordinance.

Feece commented that one could just run it for five days and would never have to get a license. Houin agreed. Feece asked how that person is any different from someone with a license.

Houin responded by stating you are now asking the State Legislature to operate in a way that makes sense and that is difficult.

Gidley asked, even though he has reservations, if this will need to be passed since it is a State Law.

Houin responded by stating if they want to be in compliance with State Law, and he recommends that they do, then this will be a required amendment. He stated he is not asking anyone to make a policy decision or weigh in on what they think is a good or bad decision. He stated he is simply recommending what would be required to be in compliance with State Law.

Commissioners Webster and Sellers moved and seconded to open the public hearing. The motion carried.

There were no comments at this time.

Commissioners Webster and Wendel moved and seconded to close the public hearing. The motion carried.

Gidley asked if this applies to the two-mile zone. Houin agreed. Gidley asked if this applies to subdivision covenants that prevent it.

Houin responded by stating subdivision covenants are a private agreement and the City does not enforce those.

Gidley asked if a subdivision that has an active Homeowner's Association could deny that.

Houin responded by stating that theoretically they could.

Commissioners Webster and Pinkerton moved and seconded to provide a favorable recommendation of PC 2024-05 to the city council. The motion passed by roll call vote.

In Favor: Gidley, Pinkerton, Sellers, Webster, Wendel, and Feece

Opposed: None

Absent: Eads, Longanecker, Milner, Rupchock-Schafer, and Secor

PC 2024-06: City of Plymouth, 124 N. Michigan Street, Plymouth, IN 46563: Amend Article 4, Section 030, Historic Neighborhood Overlay District to have all site plans reviewed by the Plymouth Building Commissioner.

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City Attorney Houin reviewed the findings of fact. He stated that this was the first recommendation to come to the Plan Commission from the Comprehensive Plan Advisory Committee. He added that this specifically came to light on a specific application that created some timing issues for them. He stated currently in the Historic Overlay District, every permit application is required to be approved by the Technical Review Committee (TRC) before a permit can be issued. He stated the TRC consists of Department Heads that review the impact of the permit on the historic nature of the district, along with the steps that would be taken to preserve the historic character of those areas. He stated that what has arisen is that the TRC only meets two times a month and sometimes not at all which creates a delay or problem when trying to get contractors lined up and fit into the schedule. He explained that the delay can complicate a project and/or add additional expenses. He also explained that the TRC does not have any decision-making authority as it is just a review committee. After discussions with Building Commissioner Manuwal and the zoning subcommittee of the Comprehensive Plan Advisory Committee, it is being recommended that they simply replace TRC within that overlay requirement with the Building Commissioner. He stated that it would give the Building Commissioner authority to review any permit within the Historic Overlay District, with the same criteria, and make a decision of whether the permit complies with the extra requirements within the Historic Overlay. He stated it would be the same as it is now so if the applicant disagreed with the decision of the Building Commissioner, or if the Building Commissioner, for any reason is not comfortable making that decision on his own, it can be reviewed by the Plan Commission for them to make that final determination.

Pinkerton asked if Houin could provide an example of what might not be proper in a historic district.

Webster gave the example of wanting to add more solar panels to his home that is in a historic district.

Houin added that one of the requirements in that overlay is that solar panels cannot be visible from the street. He stated if Webster wanted to put it on the back of his house that it would be fine, but if he wanted to put them in the front, where it can be seen from the street, then it is not permitted in the Historic Overlay District. He listed another requirement that stated all front doors must face the street. He explained that there are other requirements such as roof pitch and things like that to preserve the historic character. He stated that most of the requirements are technical requirements that the Building Commissioner is absolutely capable of making the decision on. He listed the specific example that came up during the discussion, which is a house on Garro Street that is rebuilding their porch and is within the Historic Overlay District. Before they could get their building permit, they were required to submit their site plans to the TRC and have a representative attend the TRC meeting for discussion. Everyone agreed that there was nothing that the Building Commissioner couldn't determine for compliance. He explained that they ended up delayed and had a potential problem with their contractor's schedule as they had to wait to start construction. The recommendation to allow the Building Commissioner to make those determinations is the simplest solution to avoid delays.

Commissioners Gidley and Webster moved and seconded to open the public hearing. The motion carried.

There were no comments at this time.

Commissioners Gidley and Wendel moved and seconded to close the public hearing. The motion carried.

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Webster asked if they are reviewing the size of the Historic District.

Houin replied that it is one of the things that was discussed. He received more information but it is still a topic of discussion. He explained that the committee has not come to a conclusion as to change the size of the overlay or to change the requirements within the overlay.

Webster shared that there are still four commission members on the board that were there when the Historic Overlay District was established.

Houin stated that a lot of those requirements have been changed since then and most of the requirements that are in the overlay right now were not originally a part of the requirements. He stated the front door facing the street and the pitch of the roof are some of the original requirements but there are a lot that has been added. He explained back in 2018 that there was a significant amendment to that Historic Overlay District.

Gidley commented that it was done in reaction to a specific house and the way it was being built.

Webster commented on Baker Street.

Houin stated that Gidley was on the Plan Commission and the City Council at the time and it was scheduled for a day that he was not present. He stated that there is a distinction between the Historic Neighborhood Overlay District and the actual registered Historic District. He explained that North and South Michigan Streets are both Historic Districts listed on the national list of historic places and that the Historic Overlay District is quite a bit larger than those historic districts. There is discussion about whether all of the requirements should be imposed in other areas. If it is decided to revise other portions of the zoning ordinance and choose to include more form-based requirements then the overlay may become moot at that point. He explained that they are trying to keep the amendment as simple as possible for now, while future recommendations are still being discussed.

Commissioners Sellers and Pinkerton moved and seconded to provide a favorable recommendation of PC 2024-06 to the city council. The motion passed by roll call vote.

In Favor: Gidley, Pinkerton, Sellers, Webster, Wendel, and Feece

Opposed: None

Absent: Eads, Longanecker, Milner, Rupchock-Schafer, and Secor

Comprehensive Plan Update:

Houin stated that this was the first recommendation from the zoning subcommittee and anticipates that there will be more in the future. He explained that they continue to meet monthly and said they have a meeting Friday morning at 10:00 a.m. at the Mayor's Conference Room. He explained that Booker has been trying to break down historic numbers for variance requests. He said the idea is that if the Board of Zoning Appeals (BZA) is granting a large number of variances for a specific type of request that maybe they should look at whether that provision in the zoning ordinance should be changed. He explained that they are still analyzing the data but are only a few months into the process. He does not expect anything major soon.

As for other subcommittees, Houin said they are still looking to make changes to the city's façade

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grant program. He explained that they are specifically looking at the financing for that which is more of a City Council or Redevelopment Commission question. He stated they have a marketing committee that has become very active and have put together plans to market the city, as well as advertise and celebrate our accomplishments.

Other Business:

Feece asked if Pennsylvania Avenue is in the Historic District. Manuwal and Houin agreed that it is. Feece asked if there is anything in the Historic District about anyone remodeling a house without finishing it. He stated there is no siding at all on a specific house and has been that way for several years. He stated that he has been contacted by several people regarding the unfinished house.

Manuwal shared that he has tried to contact the owner of the house he is speaking of and said that there are actually two houses that are like that. He stated that one homeowner reached back out to him and told him that the product he is using needs to be installed at a certain temperature. Manuwal stated he believes we are reaching that temperature so he is hoping something starts. He added regarding the other house he has received no response.

Feece asked if there is anything we can do as a city to spur this individual along. He stated it seemed like they had enough money for a nice pool but not for siding.

Houin responded by stating he will look to see if there is anything that would be enforceable on the building code but he does not believe there is anything specifically in the Historic Overlay District requirements that would be different from the general building codes for the city as a whole. He stated he will look at it with Manuwal to see if it is something that is enforceable under city code and if there is they will look into issuing an Order to Take Action against the property owner.

With there being no other business to come before the Commission, Commissioners Webster and Pinkerton moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 7:47 p.m.



Kyle Williams, Recording Secretary