

FULTON COUNTY
AREA PLAN COMMISSION
FULTON COUNTY OFFICE BUILDING
COMMISSIONERS/COUNCIL ROOM
SEPTEMBER 27, 2021
7:00 P.M.

CALL TO ORDER

PLAN COMMISSION MINUTES FOR:
August 23, 2021

PUBLIC COMMENTS
(Comments Not To Pertain To Agenda Items)

OLD BUSINESS:

NEW BUSINESS:
Nickel Plate Trail Board

PLAN DIRECTOR REPORT:

PUBLIC COMMENTS:

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY AREA PLAN COMMISSION
August 23, 2021

**FULTON COUNTY
AREA PLAN COMMISSION
MEETING**

MONDAY, AUGUST 23, 2021

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**AREA PLAN COMMISSION MINUTES FOR:
July 26, 2021**

**PUBLIC COMMENT
(Not to pertain to Agenda Items)
Russell Phillips**

OLD BUSINESS

**NEW BUSINESS:
North Shore Estates - Replat**

**PLAN DIRECTOR REPORT:
Nickel Plate Trail**

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY AREA PLAN COMMISSION
August 23, 2021

The Fulton County Area Plan Commission met on Monday the 23rd of August 2021, at 7:00 P.M. in the Commissioners/Council Room located within the Fulton County Office Building. Vice Chair Randy Sutton called the meeting to order at 7:00 P.M. The following members were present: David Roe, Rick Ranstead, Crystal Weida, Ruth Gunther, Debbie Barts, Phil Miller, Seth White, Kathy Hobbs and Mark Kepler. Also in attendance were: Plan Director, Heather Redinger; Board Attorney, Andy Perkins and Administrative Secretary, Kim Gard

It is duly noted Cathy Miller, Racheal Moore and Duane Border were absent.

IN RE: MINUTES July 26, 2021

Randy asked for any additions, deletions or corrections to be made to the July 26, 2021 minutes. David Roe moved to approve the July 26, 2021 minutes as written. Phil Miller seconded the motion. Motion carried as follows: David Roe, Rick Ranstead, Crystal Weida, Ruth Gunther, Debbie Barts, Phil Miller, Seth White, Kathy Hobbs and Mark Kepler being in favor and no one opposing.

IN RE: PUBLIC COMMENTS RUSSELL PHILLIPS

Mr. Phillips handed out information in regards to WECS and solar farms. He stated he had a few concerns regarding the wind ordinance, one being, why the codes were still in there when commercial WECS are prohibited in the unincorporated county. He then stated he had concerns with the setbacks, in our ordinance, on solar. He discussed with the Board a few large/mega solar projects going in, in Indiana. He stated he doesn't have issues with smaller solar projects, but has concerns with prime farm ground being used for large/mega solar fields. The Board thanked Mr. Phillips.

IN RE: NEW BUSINESS Replat: North Shore Estates

The request is for a replat of Lot 6, 7, & 8, into lots 6 & 7 and re-number lot 9, 10, & 11 to 8, 9, & 10. Located at North Shore Drive and Federal Rd. Mr. Hoff would like to replat lots 6, 7, & 8 in to 2 lots. He enlarged to drainage and retention area on the east side. Mr. Hoff will re-number the other lots to keep consistency of numbers.

Ken Hoff was present as a representative for North Shore Estates.

Randy asked for any Board comments. Being none, he entertained a motion. Seth White moved to approve the replat. David Roe seconded the motion. Motion carried as follows: David Roe, Rick Ranstead, Crystal Weida, Ruth Gunther, Debbie Barts, Phil Miller, Seth White, Kathy Hobbs and Mark Kepler being in favor and no one opposing.

IN RE: BOARD COMMENT

IN RE: PLAN DIRECTOR REPORT

Heather told the Board she received an email from Rick Rupert who is on the Nickel Plate Trail board and they would like to remove the bollards, but was informed they could not remove them in Fulton County. He asked how they could have that commitment removed. The bollards have been removed from Miami to Howard County due to them being damaged or stolen. It is very costly to repair or replace. She then stated the rules of procedure states they must go in front of the Plan Commission as well as the legislative body.

FULTON COUNTY AREA PLAN COMMISSION
August 23, 2021

Andy recommended the Nickel Plate Trail Board submit a written request to be on the Plan Commission agenda to discuss the commitment.

IN RE: ADJOURNMENT

With no further business to come before the Board, Randy entertained a motion to adjourn the August 23, 2021 meeting. Seth White moved to adjourn the August 23, 2021 Fulton County Area Plan Commission meeting at 7:45 P.M. Rick Ranstead seconded the motion. Motion carried as follows: David Roe, Rick Ranstead, Crystal Weida, Ruth Gunther, Debbie Barts, Phil Miller, Seth White, Kathy Hobbs and Mark Kepler being in favor and no one opposing.

Kim Gard, Administrative Secretary

9/12/21

To: Fulton County Plan Commission
From: Nickel Plate Trail Board of Directors
To whom it may concern:

The Nickel Plate board of directors is asking permission to remove the bollards at the intersections of The Nickel Plate Trail and where they cross roads in Fulton County. A Bollard is a metal post designed to keep motor vehicles off the trail. We have already removed all of the bollards in Miami and Howard County. These are the reasons we are seeking permission to remove the bollards:

1. The number one reason for removing the bollards is safety. Trail users have crashed into the bollards multiple times on the Nickel Plate Trail. Bicyclists travel 15 - 20 miles an hour and they need sight lines without metal posts in the middle of their path. While looking both ways for traffic, bicycle riders often can't avoid the bollards and will crash into them.
2. Emergency and law enforcement vehicles would have easier access to the trail. We provide keys to unlock the bollards, but we encourage our law enforcement representatives to use the trail for security. If a trail user is injured, emergency vehicles can get down the trail quickly without having to find the key to unlock the bollards.
3. Removing bollards will make trail maintenance safer. Our utility vehicles have to unlock all of the bollards or try to squeeze past them in order to gain access to the trail.

The current trend for Trail creation is to not include bollards any more. Again the main reason is for safety. People who wish to trespass with cars or ATVs will find a way to do that regardless. We have signage and stripes on the trail to alert motor vehicles that the pathway is not a roadway.

It is for these reasons that we are asking the plan commission to give us permission to remove the bollards in Fulton County.

Thank you for your consideration of this matter
Dan McCarthy
Nickel Plate board

possibility in the future INDOT may give the county a portion of the INDOT ROW along U.S. 31 to build the service corridor, however in a worse case scenario, the county would have to build its own road within this ROW and the trail would have to be moved. It is important for the Commissioners to understand that there is nowhere else between U.S. 31 and Lake Manitou to build a service drive that will access the homeowners along the southeast side of the Lake. This service corridor cuts off 5 to 10 miles of response distance for emergency response vehicles to access people who live on the north/east side of U.S. 31 and south/west side of Lake Manitou. The Plan Commission addressed this issue by recommending a commitment that states:

- If the trail is not built to ensure enough ROW to accommodate a future county service road, then in the event a county service road is constructed within the ROW, the county is not responsible for repairing or replacing the trail if it is damaged or destroyed.

Recommendation

Unfortunately, there are clear issues with this property from the stand-point of some of the adjacently owned property owners and the fact that people who are willing to break the law will do so with, or without, the presence of a trail along this railroad right-of-way. These are also issues that any county, township, city, or town park will face.

The Plan Commission passed the following motion with a vote of 11-0:

Motion to make a favorable recommendation to the Fulton County Commissioners for the request of a zone map amendment for a non-motorized walking trail on the Nickel Plate Rail line situated between Mitchell Drive and the Miami County Line, Rochester, IN, with the following conditions:

- 1.) The Technical Review Committee reviews a complete set of plans detailing:
 - All signage that includes but not limited to:
 - No trespassing signs set a specified number of feet apart along the private properties,
 - Statements of the presence of hunters in the area adjoining the Nature Preserve,
 - Littering fines, and
 - General trail rules
 - Trail closed signs predominately placed at each entrance to sections not open to the public along with a gate blocking the entrance to such sections off the county roadways- this shall be completed prior to the first section of the trail being opened to the public;
 - Trash receptacle placement;
 - 911 marker system development and approval by the 911 Director;
 - Trail maintenance plan;
 - * • Barricade/gate/chain placement plan at each private drive and road crossing; and
- 2.) If the trail is not built to ensure enough ROW to accommodate a future county service road, then in the event a county service road is constructed within the ROW, the county is not responsible for repairing or replacing the trail if it is damaged or destroyed.
- 3.) Use the Agricultural Fence Law, at most a hog tight fence, does not include privacy fences;
- 4.) No motorized vehicles allowed, with the exception of emergency vehicles;
- 5.) Clear the intersections to allow vision clearance;
- 6.) Signage posted at crossings of roads, warning traffic of trail crossing;
- 7.) Any existing tile lines and drive easements currently intersecting the Rail ROW are to be maintained in perpetuity; and
- 8.) The Zone Map Amendment is for the use of a non-motorized trail only.

- b. The Plan Commission shall approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan, which shall become written commitments of the applicant, if the conditions are necessary to satisfy the requirements and intent of this Ordinance.
 - c. The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications which have been denied shall not be re-filed for a period of one (1) year from the date of the denial, unless a different design which addresses the reasons for the denial is submitted.
 - d. The petition shall be tabled based on a request by the Plan Director, the petitioner, remonstrators, or interested parties; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted Rules and Procedures of the Plan Commission.
 - g. The Plan Commission may approve a Site Development Plan with the condition that surety be provided that guarantees the timely completion of any proposed public improvements included in the development. The surety shall be in a form acceptable to the Plan Commission, the Plan Director, and the County Attorney, and be consistent with the surety provisions of the Fulton County Subdivision Control Ordinance.
 - h. The Plan Director shall prepare and sign written findings of fact documenting the action taken by the Technical Review Committee and the Plan Commission (if Plan Commission review is necessary). The Plan Director shall make copies of the written findings of fact available to the applicant within five (5) days of the date of the decision.
 - i. Prior to any construction activity, the improvements approved through all Site Development Plans shall be required to obtain the appropriate Improvement Location Permit, and any other required permits specified by this Ordinance.
4. The applicant in any Site Development Plan application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-613.
- a. Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.
 - b. Any commitments shall be considered by the Technical Review Committee and/or the Plan Commission at the time of their review of the petition.
 - c. Following final action being taken on the Site Development Plan application, the written commitments shall be recorded by the petitioner in the office of the Fulton County Recorder. A copy of the recorded commitments shall be provided by the petitioner to the Plan Director for the records of the Plan Commission prior to the receipt of an Improvement Location Permit.
 - d. The written commitments shall be considered part of this Zoning Ordinance binding on the subject property.
 - 1. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or any portion of the subject property.
 - 2. The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of any aspect of this Ordinance.
 - 3. The written commitments may be modified by the Plan Commission only through the Site Development Plan process described by this section.



- b. The Committee may approve, approve with modifications, deny, table, or forward to the Plan Commission the Site Development Plan.
 1. The Committee shall approve the Site Development Plan if it complies with all applicable requirements of this Ordinance.
 2. The Committee shall approve the Site Development Plan with modifications if it is generally consistent with the considerations for approval outlined in E(2)(a) above, but requires minor modifications to be completely in compliance with the requirements and intent of this Ordinance. The applicant shall revise the Site Development Plan proposal consistent with the Committee comments and supply revisions for review of the Plan Director prior to the issuance of any Improvement Location Permit.
 3. The Committee shall deny the Site Development Plan if it is found to be inconsistent with the considerations outlined in this Article and Ordinance. If denied, the TRC decision shall automatically be appealed to the Plan Commission without further application or action by the applicant. The appeal shall be reviewed by the Plan Commission in accordance with *this Ordinance*. The applicant may voluntarily withdraw the appeal of the TRC decision to the Plan Commission at any time.
- c. The Committee shall table the Site Development Plan based on a request by the Plan Director or the petitioner, a determination by the Plan Director that sufficient information has not been provided, or the failure of the petitioner or an appropriate representative of the petitioner to appear at the Committee meeting. Site Development Plan applications which are tabled shall be automatically docketed for the next review meeting.
 1. The Committee shall forward Site Development Plans which are generally consistent with the considerations outlined above to the Plan Commission for a public hearing if the proposal:
 - a. includes any improvement to be dedicated to the public,
 - b. includes proposed written commitments, or
 - c. requires the imposition of conditions in order to be completely consistent with the considerations for approval.
- d. If Plan Commission review is required, the Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted calendar of meeting and filing dates. The applicant shall revise the Site Development Plan proposal consistent with any Committee comments prior to review by the Plan Commission and shall provide such revision for review consistent with the adopted calendar of filing and meeting dates.
- e. Public Meeting Notification (if necessary) shall be completed consistent with the requirements of Indiana State Code, the Rules and Procedures of the Plan Commission, and the provisions of this Ordinance.
- f. The Plan Commission shall, at a meeting scheduled consistent with the adopted calendar of meeting and filing dates, review the Site Development Plan and any supportive information.
 1. The applicant and/or any appropriate representatives of the applicant, such as a surveyor or attorney, must be present at the public hearing to present the Site Development Plan and address any questions the Commission may have.
 2. The Commission shall consider a report from the Plan Director describing the findings of the Technical Review Committee and testimony from the applicant and any interested parties in making its decision.
 3. The Plan Commission shall approve, approve with modifications, deny, or table the Site Development Plan application.
 - a. The Plan Commission shall approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.



5. Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below:
 6. The person making the appeal shall submit to the Plan Director a letter giving notice of the appeal and required supportive information within thirty (30) days of the decision which is subject to the appeal. Supportive information shall include, but not be limited to the following:
 - a. Copies of all materials submitted to the Technical Review Committee upon which the decision being appealed was based.
 - b. Copies of any written decisions or findings of fact which are the subject of the appeal.
 - c. A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to Fulton County upon which the appeal is based.
 7. Notification for a scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of this Ordinance.
 8. The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the appeal and supportive information.
 - a. Either the entity initiating the appeal or their representative must be present at the public hearing to present the appeal and address any questions from the Commission.
 - b. The Commission shall consider a report from the Plan Director, testimony from the entity making the appeal, and testimony from any interested parties at the public hearing.
 - c. The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the Rules and Procedures of the Commission.
 - d. Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or table the Site Development Plan application consistent with the approval procedure for applications referred to the Commission by the Technical Review Committee as described in this Article.
- F. Certificate of Occupancy: The following procedures apply to Certificates of Occupancy/Compliance.
- a. It shall hereby be declared unlawful and in violation of the provisions of this ordinance for any builder or property owner to allow any new or significantly remodeled structure to become occupied or utilized prior to:
 1. Legally obtaining an Location Improvement Permit,
 2. Passing a final inspection; and
 3. Receiving an Certificate of Occupancy Permit from the Plan Commission office.
 - b. The Staff shall, within fourteen (14) days of a request for Certificate of Occupancy, inspect the premises for compliance with the provisions of this Ordinance and the Location Improvement Permit.
 - c. A Temporary Certificate of Occupancy/Compliance may be issued by the Staff if the proposed Building, Structure or Use complies with the provisions of this ordinance, except that certain external site features (e.g., finish coat for asphalt Parking Areas or landscaping) have not been completed due to ground or weather conditions which are not immediately suitable for permanent installation. The duration of the Temporary Certificate of Occupancy/Compliance shall be specified on the Temporary Certificate of Occupancy/Compliance, provided, however, in no case shall a Temporary Certificate of Occupancy/Compliance exceed six (6) months in duration. In cases of extreme hardship or weather conditions, and for good cause shown, the Plan Commission may grant a one (1) time extension of not to exceed three (3) months. Where pertinent, a Certificate of Occupancy/Compliance may be issued without all the required landscaping installed if a landscape bond is provided. The landscape bond shall be one and half times (1 1/2) the cost of the planting and installation cost. In order to determine the bond amount, a quote of the actual cost will be provided by the developer's landscape contractor.

G. Zoning Map Amendments



The following procedure applies to Zoning Map Amendment Petitions

- a. Submit an application, required supportive information, and application fee at least thirty (30) days prior to the regularly scheduled Plan Commission meeting.
 1. Any application requesting a zone map amendment, from any district to an IU District, must be accompanied by a Third Party Review, which could contain recommendations that are applicable to the sited operation and, any and all, land utilized within/for the operation. Any recommendations included in the Third Party Review will be taken into account and may become a condition of the approval for the Zone Map Amendment. The petitioner shall bear the burden of expense of the Third Party Review.
 2. The Third Party Review shall consist of a review of the compatibility of the proposed facility with the soil types existing on the proposed facility site, a review of the soil types of any land utilized within/for the proposed operation, a review of any and all setbacks dictated by a state or federal agency and their effectiveness in conjunction with any existing waterways located at the proposed site and/or on any land utilized within/for the proposed operation, and a review of any and all additional environmental concerns regarding sensitive areas contained at the proposed site and/or on any land utilized within/for the proposed operation
- b. The Plan Commission will then review the application and required supportive information. When considering an amendment to the zoning map, the Plan Commission may require or allow the petitioner to submit written commitments, as specified in IC 36-7-4-615, that restrict the use(s) of the proposed zoning district.
 1. Initial Rezoning - Written commitments may be initiated by the Plan Commission, the petitioner, or by the legislative bodies.
 - a. In approving written commitments, the legislative bodies may stipulate that the Plan Commission without the legislative bodies' consent may not modify such commitments. In making the stipulation, the legislative bodies shall be deemed to be modifying the written commitments.
 - b. If the legislative bodies wishes to initiate or modify the written commitments recommended by the Plan Commission, the legislative bodies shall refer the new commitments or modifications to the Plan Commission for consideration. The legislative bodies or the Plan Commission may require notice and a public hearing if either body regards such notice and hearing to be needed to afford adequate opportunity for public input.
 - c. After considering the new or modified conditions, the Plan Commission must agree or disagree with the legislative bodies' action.
 - d. If the Plan Commission agrees with the new or modified commitments, they take effect immediately.
 - e. If the Plan Commission disagrees with the new or modified commitments, the Plan Commission shall forward them to the legislative bodies with the reasons for disagreement. The commitments shall take effect only if the legislative bodies again vote to require said modified commitments.
 2. Modifications or termination of commitments after initial zoning - The Plan Commission may modify or terminate written commitments after notice is provided in accordance with the legislative bodies' rules of procedure. The modification may be initiated by the owner of the property, by the Plan Commission, or by the legislative bodies. The commitments to be modified are subject to the legislative bodies' stipulation included in Section 5.3 (E)(a) (1). In such a case such modification must be certified to the legislative bodies for review and approval. The Plan Commission per year can approve only one modification to the written commitments.





Fee Summary Paid Totals

08/01/2021 - 08/31/2021

Fee Name	Fee Description	Account Number	Total Amount	Total Fees
Group: 1001.03201.000.0036				
A. County, Akron, & Town of Fulton Residential - Inspection Fee	Enter Number of Inspections	1001.03201.000.0036	\$1,085.60	15
A. County, Akron, & Town of Fulton Residential - Permit Fee		1001.03201.000.0036	\$203.40	16
A-1. COUNTY, AKRON, & TOWN OF FULTON ELECTRICAL PERMIT		1001.03201.000.0036	\$720.00	18
A-2. County, Akron, & Town of Fulton Commercial - Inspection Fee	Enter Number of Inspections	1001.03201.000.0036	\$693.20	3
A-2. County, Akron, & Town of Fulton Commercial - Permit Fee		1001.03201.000.0036	\$375.00	2
			\$3,077.20	54

Group Total: 5

Group: 1001.03203.000.0036

B. City of Rochester Residential Permit Fee		1001.03203.000.0036	\$147.50	10
B-1. City of Rochester Residential-Inspection Fee	Enter Number of Inspections	1001.03203.000.0036	\$385.00	10

B-2. CITY OF ROCHESTER ELECTRICAL PERMIT		1001.03203.000.0036	\$60.00	3
B-3. City of Rochester Commercial Permit Fee		1001.03203.000.0036	\$102.50	5
B-4. City of Rochester Commercial-Inspection Fee		1001.03203.000.0036	\$440.00	5
			\$1,135.00	33

Group Total: 5**Group: 1001.07101.000.0036**

BZA. Development Standard Variance		1001.07101.000.0036	\$875.00	5
BZA. Special Exception		1001.07101.000.0036	\$175.00	1
ZO. LIP		1001.07101.000.0036	\$1,300.00	26
ZO. Signs	Enter Square Feet	1001.07101.000.0036	\$229.44	2
ZO. Solar Array- Small		1001.07101.000.0036	\$80.00	1
			\$2,659.44	35

Group Total: 5

			\$6,871.64	122
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Total Records: 15**9/1/2021****Page: 1 of 1**