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A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, March 10, 2009 at 6:30 p.m. in Meeting Rooms 4 & 5 of the Hendricks County Government Center, 355 South Washington Street, Danville, Indiana 46122. Members present were: Mr. C. Richard Whicker, President; Mrs. Jo Ann Groves, Vice-President; Mrs. Sonnie Johnston; Mr. Jon Cain; Mr. Eric Wathen; and Dr. Russell Hodgkin. Member absent was: Mr. Brad Whicker. Staff members present were: Mr. Don F. Reitz, AICP, Secretary and Director of Planning; Mrs. Lesa Ternet, Planner; Mr. Eric Fazzini, Plan Technician; and Mrs. Joanne Garcia, Recording Secretary.

Mr. Whicker stated that there was a quorum present with six (6) voting members. Mr. Whicker then opened the meeting with the Pledge of Allegiance.

Mr. Whicker stated that the first order of business was approval of the minutes for the February 10, 2009 meeting.

There being no corrections or additions, Mrs. Groves made a motion to grant approval for the February 10, 2009 minutes.

Mrs. Johnston seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Whicker then called for the first item on the agenda as follows:

MAP 722/08 (AMENDMENT): 70 WEST COMMERCE PARK (ROAD ONLY); an amendment to a previously approved major plat, 1,008 acres, Liberty Township, S25-T14-R1E, located for Phase I west of State Road 39, east of County Road 100 East, north of County Road 1000 South and for Phase 2 east of County Road "0," west of County Road 100 East and south of County Road 1000 South. (Beam, Longest & Neff)

Mr. Ashton Fritz of Beam, Longest & Neff appeared on behalf of the applicant, KS Hendricks Partners. He stated that the application was an amendment to a previously approved plat with three separate roads. He stated the amendment would include only one road that traversed Phases I and 2. He stated that it was a slight change to the previous roads to avoid relocating an existing ditch.

Mr. Whicker then called for questions or comments. There being none, Mr. Whicker opened the public hearing. There being no one signed up to be heard, Mr. Whicker closed the public hearing.

Mr. Wathen then asked about one of the staff recommendations which recommended that County Road 1000 South become a dead end and connect to the proposed road as well as revising the traffic study.

Mr. Fritz stated that was something being considered but he did not know if a resolution had been reached.

Mrs. Groves asked if that would be County Road 1000 South that exited onto State Road 39.

Mr. Wathen stated that was correct and he stated after speaking with the County Engineer, John Ayers, the reason for the request to close part of that road was because there were concerns with the truck traffic exiting from Interstate 70, and going down that County Road. He stated it was preferred that truck traffic go up north to the main entrance to the industrial park which was across from the main entrance to the Lauth property on the east side of State Road 39.

Mrs. Groves said she had understood that an agreement had already been made regarding that matter.

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Mr. Reitz stated that the arrangement would be made as part of any development plan on that parcel.

Mr. Wathen stated that he hoped a development plan would be forthcoming shortly.

Mr. Jerry Williams of the Paul Kite Company representing KS Hendricks Partners appeared. He stated that the partners had come to the conclusion that they were willing to go ahead with the county's recommendation to close that portion of County Road 1000 South. He stated they would ask that the road remain open for use while the Phase I road was being constructed.

Mr. Wathen stated that Mr. Ayers had agreed with that proposal for use as a temporary access to the site.

Mr. Whicker asked for further questions or comments. There being none, Mr. Whicker called for a motion.

Mr. Wathen made a motion to grant approval for **MAP 722/08 (Amendment): 70 West Commerce Park (Road Only)** subject to all staff recommendations in letter dated March 3, 2009.

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

The staff recommendations were as follows:

DRAINAGE CONDITIONS:

1. Subject to Drainage Board approval and the conditions of the County Surveyor.

STAFF RECOMMENDATIONS:

1. Parcel 07-3-26-41W-376-002, also known as Lot 2 of Christie Acres, shall be rezoned to a commercial classification prior to filing a Development Plan Review application on this parcel. The applicant understands this and will pursue rezoning in a timely manner.
2. When the two Future Drives are to be developed, sidewalks shall be proposed on one side of the street per WA 209/08.
3. The proposed realigned road, which will line up with the Lauth project to the east, is acceptable under the condition that County Road 1000 South will become a dead-end and connect to the proposed road. The traffic study must be revised accordingly.
4. The applicant would like to use 1000 South as a temporary access road for construction purposes and would then tie it into the proposed road when the new roadway is useable. Staff has no objection to this request as long as there is an acceptable time limit on this usage.
5. An INDOT entrance permit and agreement for funding of improvements on SR 39 must be received prior to any secondary approvals.

CONDITIONS OF APPROVAL:

1. A properly executed County/Owner Inspection Agreement must be provided prior to secondary approval with all appropriate fees paid prior to the start of any construction.
2. This project is subject to the National Pollutant Discharge Elimination System (NPDES) General Permit covering storm water quality. Procedures there under are governed locally by the Hendricks County Stormwater Management Ordinance and corresponding Technical Standards Manual. An application, fees, construction plans, specifications and Stormwater Pollution Prevention Plan must be presented for approval to the Hendricks County Drainage Board separately from the application to the Hendricks County Area Plan Commission. Secondary Stormwater Approval for a plat, PUD or development plan must be obtained from the Drainage

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Board prior to Secondary Approval (or Approval in the case of minor plats) by the Plan Commission or its Administrative and Plat Committee. In addition, a Clean Water Permit issued by the Hendricks County Surveyor/ Clean Water Department is required for individual building lots prior to obtaining a Building Permit from the Planning and Building Department.

3. The Hendricks County Planning and Building Department must be notified at least seventy-two (72) hours prior to any site improvements being installed.
4. Development plan approval does not constitute approval of signage unless such approval is expressly granted by the Plan Commission as part of this development plan. Signage review and approval is typically carried out as a permitting process separate from development plan approval.

ZA 395/09: NEW WINCHESTER PROPERTIES LLC; a zoning amendment change from NB/Neighborhood Business District to LI/Light Industrial District, 4.88 acres, Marion Township, S4-T15N-R2W, located at the northeast corner of U.S. Highway 36West and State Road 75. (Kirtley, Taylor, Sims, Chadd & Minnette PC)

Mr. Dan Taylor, attorney for New Winchester Properties appeared along with Mr. Eric Cline and Mr. Allen Cline, members of New Winchester Properties, LLC as well as Mr. John O'Keefe, representing the Indianapolis Propane Exchange (IPE). He reviewed the history and location of the property which contained an existing grain elevator owned by his clients. He stated that the current site was comprised of a storage building, office & grain area and two large 200,000 bushel bins and two 300,000 bushel bins. He stated there was a large open area at the north end of the property. He stated that the Light Industrial use would permit the grain elevator and storage. He stated that the petition was precipitated because his clients had leased some of the existing office and storage area to the Indianapolis Propane Exchange (IPE). He stated that business provided propane tanks for farm and other uses and that it was not a retail operation. He stated that some propane tanks are stored inside and out and when the tanks were ordered by a customer, they were filled at the existing large tank, which had been at the site and was the grain elevator's primary source of energy for drying the grain. He stated that the second use could be allowed on the site. He stated that the petitioner did not plan any new buildings. He stated that surrounding residents would not notice much change with the new business in operation. He stated that initially, they had conducted a neighborhood meeting and the neighbors residing to the east of the operation, Mr. & Mrs. Dick Hayden, had requested a fence to buffer their property. He stated that after that, there had been a request to move the stored tanks to the west side of the building and that had been done. He stated that there would likely be anywhere from 7 to 15 of said tanks stored on the outside of the building at any given time. He stated that as they were purchased and delivered, and the number of them became fewer, there would be more delivered. He stated that the neighbors to the west had not objected to the new use. He then reviewed where the location of the proposed fence would be to buffer the property from the Hayden property to the east. He explained that when the tanks for sale were filled, that would be done on the east side of the property next to the existing large propane storage tank.

Mr. Taylor stated that they had worked with the staff and he explained the commitments they were willing to make. He stated that the first commitment had to do with the fact the propane tanks would be stored on the west side of the building, away from the Hayden property. He stated that the permanent propane tanks that serviced the grain elevator would remain as it would be an extreme expense to move those and relocate them. He stated that the second commitment had to do with the uses allowed at the site for the Light Industrial district. He stated that there were many uses allowed in that district and that the owners of the property were not interested in all of the uses and wished to just allow the propane business and continue the grain elevator operation. He stated that the second commitment eliminated all of the other intense uses that might be possible in the Light Industrial district. Mr. Fritz then reviewed the zoning and Comprehensive Plan recommendations for the site. He stated that the propane business greatly enhanced the viability of the existing grain elevator which was the only one in Hendricks County. He stated that if that grain elevator went away, the prices the farmers would receive for their corn would be reduced. He stated they believed their request was consistent with the Comprehensive Plan. He stated they believed that the new use would be consistent with the existing operation of the grain elevator. He stated that they were not changing the existing use but were asking for another compatible

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use to be allowed. He stated that New Winchester Properties had one employee working at the grain elevator at any given time. He stated he believed that conservation of property values was another important factor and he believed the grain elevator and the propane operation would maintain the value at that site. He stated that an abandonment of the grain elevator would be very dramatic to the residents of the Town of New Winchester.

Mr. Taylor stated they had been working with the Hayden's and their attorney but despite their best efforts, they had not come up with an agreement as yet. He then mentioned one of the staff's recommendations as to the landscape buffering along State Road 75 and U.S. Highway 36. He stated they were asking the Commission to give consideration to that request because there were no neighbors objecting to the use and currently, there was no one residing across the road. He stated they did not believe this was the kind of use to be readily noticed and that the new use would blend in with the current use on the site. He stated because of these facts, they did not believe that the traditional buffering required would be necessary. He stated also that there were plans by the State to do some work at the intersection of State Road 75 and U.S. Highway 36 and probably a turn and decel lane going west on U.S. Highway 36. He stated that there would be work which might cause any landscaping to be removed. He stated they believed that the way to draw the least attention to the proposed new use would be to allow it to remain the same. He then requested a favorable recommendation from the Commission.

Mr. Whicker asked Mr. Taylor to review how the propane operation would conduct business as to the existing propane tank that would be used to refill tanks.

Mr. Taylor stated that it was correct that the smaller tanks would be filled when ordered from the larger permanent tank onsite. He stated that the smaller mobile tanks could not be stored with propane in them. He stated, however, that probably 80% of that larger tank would be used for the grain operation.

Mr. Whicker stated then it was his understanding that the tanks stored on the site were for sale and if purchased, they would be filled at that time at the large storage tank on the site.

Mr. Taylor asked Mr. O'Keefe to answer that question.

Mr. John O'Keefe of 675 Weeping Way Lane, Avon, appeared. He stated that the larger tanks stored on the west side of the property were filled on the customer's premises and not at the propane operation site.

Mr. Whicker then stated it was his understanding that the large propane truck used in the business would then go to the customer's location and fill the empty tank that was delivered when ordered. He stated that truck would refill from the existing permanent tank at the New Winchester site.

Mr. O'Keefe stated that was correct.

Dr. Hodgkin asked how long the exchange process had been taking place.

Mr. Taylor stated it began during the fall of last year.

Mr. O'Keefe stated it was around December 3, 2007.

Dr. Hodgkin then asked if prior to that time, the propane was used just for the grain elevator operation and now was being used for a dual purpose.

Mr. Taylor stated that was correct. Mr. Taylor also pointed out that there were two smaller tanks associated with the use. He stated those tanks had serviced the grain elevator.

Mr. Whicker then asked if it was possible there might be two to four of the larger trucks being serviced at the site at any time.

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Mr. Taylor stated yes.

Mr. O'Keefe stated that his business had approximately 160 customers currently between Indianapolis and Hendricks County. He stated it was true he hoped his business was successful and that he would need more trucks for his operation.

Mr. Taylor stated that currently the trucks would fill up in the morning, make their deliveries and return to the site at the end of the day to refill again.

Mrs. Groves then asked how the larger tank would be refilled.

Mr. O'Keefe explained that a transport truck would visit the site at present twice a month to refill the tank.

Mrs. Groves asked how many trucks would be filling up at the site each day.

Mr. O'Keefe stated that he utilized one truck to deliver the small tanks and one bulk truck with the larger tank for refills. He stated those trucks used the site four times a week. He stated that at the end of the day, the trucks were also parked on the site.

Mrs. Groves then asked if they were objecting to placing some landscaping or fencing between their property and the Hayden's property to the east.

Mr. Taylor stated that they had originally agreed to place a fence along the Hayden's property. He then stated that after that, the Hayden's then wanted his clients to relocate the refillable tanks to the opposite side of the property, and they complied.

Mrs. Groves asked what the zoning ordinance required between a Light Industrial zoning and an agriculture residential zoning.

Mr. Fazzini stated a Level 4 landscaping was required.

Mrs. Groves asked if a development plan would be required.

Mr. Reitz stated that would not be required.

Mrs. Groves asked if a motion on the matter needed to include the landscaping being required.

Mr. Reitz stated that the Commission's desires should be made clear as to what they wanted to see or allow the staff to review the plans.

Mrs. Groves stated that she was not opposed to the operation and hoped that their business grew but she was wondering at some point how much the activity would increase and whether or not the one large tank would be adequate or if another tank might be needed.

Mr. O'Keefe responded that if his business became too large, he would be required to look for another site to relocate as expansion at the site was limited.

Mr. Taylor commented that during harvest season, there would be somewhere around 120 semi-tractor trailers coming through the elevator. He stated that a very small portion of the existing large propane tank would be used by the Indianapolis Propane Exchange business and said business was nowhere near a majority of the activity on the five acre site.

Mr. Wathen asked if the applicant would be required to landscape along U.S. Highway 36 and State Road 75.

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The staff stated that the requirements included street trees, bufferyard landscaping and if there was not enough green space, then a variance would be required.

Mr. Reitz stated that as proposed, there would be no development plan required and so applying these standards did not count.

Mr. Wathen commented that with the use on the site and its existing history, he would not be for requiring them to provide landscape buffers along U.S. Highway 36 and State Road 75. He stated it would not make sense for the site because of all the truck traffic coming in and out.

Mr. Cain agreed with Mr. Wathen's comments.

Mrs. Groves then asked about no retail sales.

Mr. O'Keefe stated that he was not sure there would not be a property owner coming to the site to request a tank to be filled. He stated it did not happen now but could happen in the future if they were allowed to operate on the site.

Mr. Taylor stated that was not a service currently being provided and their office was not staffed full time to handle such a situation.

Mrs. Groves asked if the smaller tanks would be stored around the larger tank.

Mr. Taylor stated that the commitment, if approved, would require all tanks to be stored on the west side of the property.

Mr. Whicker asked what size the business could grow.

Mr. O'Keefe stated that there was not enough room to grow to the size of the Amerigas in Danville or Propane, Inc. in Brownsburg. He stated they were limited in how large they could grow because the size of the storage tank limited the growth.

Mr. Whicker asked about state safety regulations and any licensing required.

Mr. O'Keefe stated that there were certain state and DOT requirements that needed to be fulfilled.

Mr. Whicker asked if any of their employees were required to be licensed.

Mr. O'Keefe stated that he as well as any employees received safety training continuously. He stated that the State of Indiana did not require specific licenses. He stated he held licensing from other states and believed in keeping employees safety trained.

Mr. Whicker asked Mr. Reitz what happened if Mr. O'Keefe's business expanded to the point where he had to move to another location and another propane business was interested in the site. He asked if that new business could remove the existing tank and install a larger one.

Mr. Reitz stated that if it constituted an expansion, then a development plan requirement would kick in.

Mr. Whicker then opened the public hearing.

Mr. Mike Andreoli representing Mr. and Mrs. Dick Hayden appeared. He stated that the Hayden's had lived in proximity with the grain elevator operation for the past twenty years with no difficulties or problems. He stated that they had noticed an increase of use as it related to the large tank located 125 feet from their home in terms of additional canisters, additional trucks and additional service people. He stated that the business had been going on in violation of the zoning ordinance for a period of almost a

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year. He stated that prior to the cleanup of the site along their property line, it had included canisters and other tanks. He stated that on their behalf, he had filed a written remonstrance. He stated that even though they had come to an agreement with the owners of the property, further details were needed as to how they were ultimately going to use the property. He stated they were still not sure of some answers to their concerns. He stated that the Hayden's wanted to be good neighbors and he reviewed what was discussed as to accommodations. He stated that rather than a long landscaping screen or a fence along their property line, he stated they felt an approach would be to locate the propane tanks on the west side of the grain elevators rather than east or west to shield them from their home. He stated they were under the impression that the large tank would be relocated along with all of the other tanks. He stated they believed it was a reasonable request to relocate the entire operation west of the grain elevators so that the Hayden's did not have to see multiple trucks per day.

Mr. Whicker asked for questions or comments.

Mr. Fazzini commented if moving the large tank was considered, the staff would want to look at the thoroughfare plan right of way requirements and vehicle stacking by the County Engineer.

Mr. Whicker called for the next person on the signup sheet.

Mr. Dick Hayden appeared and stated that his attorney had covered all of his concerns.

There being no one else signed up to be heard, Mr. Whicker closed the public hearing.

Mr. Taylor then responded by stating that relocating the large tank was not feasible for his clients due to the setbacks on the west side of the property and in complying with INDOT requirements. He stated that his clients could not afford the expense of moving that tank and consequently, the propane business would have to relocate elsewhere as well as the effect on the grain elevator business. He then commented that he did not believe this request was spot zoning. He stated that they were asking them to match the use that had been on the site historically prior to any zoning ordinance. He stated they had a neighborhood meeting at which two families had shown up and there had not been any public outcry on what was being considered on the site. He stated his client had not been aware of the zoning violation and were now attempting to comply. He stated that the Clines had authorized him to comply with all county requirements, which he was attempting to do.

Mr. Whicker asked about the suggestion to run a pipe over to the west side and whether that would be feasible.

Mr. Taylor commented that had not been considered feasible or economically possible and his clients could not afford that request. He stated other feasible options had been suggested, such as a 450 foot fence.

Mrs. Groves stated she was not against the rezoning request. She stated she agreed that no landscaping should be required along the front of the property. She suggested placing landscaping and mounding on the east side of the tank to hide the trucks instead of the proposed fencing.

Mr. Taylor then stated that Mrs. Groves' concept might be feasible for his clients and that they would work with the staff to comply. He stated it was not their preference, but they were okay with the proposal.

Mr. Cain stated he agreed with Mrs. Groves' proposal for landscaping on the east side of the tank.

Mrs. Johnston also agreed with the suggestion.

Mr. Fazzini asked how much area was between the tank and the Hayden property line.

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Mr. Taylor stated he believed it was approximately 40 feet. He stated he was confident they could work out the details with the staff.

There being no further comments, Mr. Whicker called for a motion.

Mrs. Groves then made a motion to send a favorable recommendation and adopt the positive Findings of Fact/Law for **ZA 394/09: New Winchester Properties, LLC** to the Hendricks County Board of Commissioners and subject to the following conditions:

1. Recommendations in staff's letter dated March 3, 2009;
2. Petitioner's limitations on uses for the property and commitments for use of the property;
3. The commitment by the Indianapolis Propane Exchange to store the smaller tanks used in the business on the west side of the property;
2. Landscaping required to the east of the tank, along the length of the tank and north and south of the ends of the tank 25 feet with a minimum level of landscaping as determined by the ordinance and also by the staff; and
3. No retail sales of propane tanks on the property allowed.

Mr. Whicker then discussed that because of the requirements of the Level 4 landscaping in the ordinance, he suggested that Mrs. Groves be more specific in what type of landscaping should be used in the screening being required of the applicant.

Mr. Reitz stated that the minimum standards of the landscape ordinance could be used.

Mrs. Groves stated she would be in agreement with those minimum requirements as per the ordinance for vegetation and allowing staff's judgment on that matter.

Mr. Cain seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, March 24, 2009 at 9:30 a.m. or thereafter.

The staff recommendations and positive Findings of Fact/Law were as follows:

Staff Comments:	<p>The site under consideration consists of two parcels approximately 5 acres in size and currently zoned NB/Neighborhood Business. The applicant has requested a rezoning to change the parcels from NB/Neighborhood Business to LI/Light Industrial to allow an established legally nonconforming grain elevator to operate in conjunction with the exchange and distribution of propane. <i>These two uses are each considered principal uses.</i> If the rezoning is approved, this site will also require variance approval from the Board of Zoning Appeals to permit multiple principal uses.</p> <p>Last year the applicant was cited for a violation for his addition of the propane exchange and distribution along with parking lot lighting and piled trash. The applicant subsequently met with staff to work towards a remedy of the above issues and it was determined that the property would have to be rezoned to LI to permit the added propane exchange and distribution operations.</p> <p><u>Compatibility with current uses.</u> The area is a mix of agricultural, residential, and commercial uses. The grain elevator is a non-residential use which has been established on this site for over 40 years—making it a legally nonconforming land use. The propane exchange and distribution is a non-residential land use which can be considered reasonably similar in type and intensity to the longstanding grain elevator operation.</p>
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Compatibility with futures uses. The Comprehensive Plan recognizes this area for Agricultural uses on the land use plan. The existing grain elevator does fit within the Agriculture category and the exchange and distribution of propane fits with the already established nonresidential use on the site. U.S. Highway 36 is classified as a Rural Principal Arterial. State Road 75 is classified as a Rural Minor Arterial. The Comprehensive Plan encourages non-residential activities to have access to major corridors.

Other considerations. The grain elevator operation represents a very intensive exception to the current and planned rural agricultural land use pattern of the area. Nevertheless, it serves a vital agricultural function and can be considered a normal and expected activity in this heavily agricultural area. The rezoning of the property to LI for the purpose of permitting a propane distribution and exchange business does not alter the intensity of the grain elevator operation assuming (1) that the uses permitted in this particular LI district are limited to less intense ones, and (2) that surrounding property is adequately screened from the propane operation. The applicant has, in fact, stated that he will commit to restricting uses permitted on the property and will screen adjacent property from the propane operation by using the elevator office buildings and grain bins. The Plan Commission may want to query the applicant on the specifics of his screening plan, especially as it pertains to the State Roads and property to the west. Any commitments made during this current application must be recorded on a Development Commitment Recording Form within 30 days of approval.

A commitment arising from this rezoning to restrict uses on this site would be a clear benefit to the community. A second commitment arising from this rezoning to screen any outdoor propane tanks would lessen the impact to the adjacent landowners. The applicant has committed to screening the property to the east, as well as no propane tank storage north and/or east of the current elevator office building and grain bins.

This property is not in an area served by a public wastewater treatment plant. A commercial on-site sewage disposal system for this property and for the proposed use will have to be approved by the Indiana State Department of Health. A Hendricks County Health Department permit for the system will also be required.

Staff
Recommendation:

Based on the information provided at the time of application, staff recommends the Plan Commission recommend: **APPROVAL** in the event the petitioner commits to screening propane tanks from adjacent residential uses and roadways; and that the applicant commits to restricting the uses on this site so as to only allow a grain elevator and the exchange and distribution of propane.

Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 394/09: New Winchester Properties, LLC

An application for the above noted zoning map amendment was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to rezone a property from NB/Neighborhood Business to LI/Light Industrial. Acting in its role as staff to the Hendricks County Area Plan Commission, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the department’s office at the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1, the DPB staff published a legal notice in the *Hendricks County Flyer* and the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with the Hendricks County Area Plan Commission Rules of Procedure Section 3.07(D)(1). The public hearing included the above zoning map amendment on its agenda.

In accordance with Section 3.07(D)(2) of the Rules of Procedure of the Hendricks County Area Plan Commission, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested

persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this rezoning petition.

The Commission conducted the hearing as advertised and heard evidence and testimony on the above noted rezoning. Meeting in open session, the Commission subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and the Hendricks County Zoning Ordinance. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Commission weighed the evidence associated with the following requirements and made the following findings.

IC 36-7-4-603: Zoning ordinance; preparation and consideration of proposals. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:

(1) The comprehensive plan;

The Commission finds that the proposal does substantially comply with the recommendations of the Hendricks County Comprehensive Plan. The Comprehensive Plan designates this area for agricultural uses. The use of the site for a grain elevator is well established and longstanding and is a use supporting production agriculture. The propane exchange and distribution use does not substantially comply with the Comprehensive Plan designation for agricultural uses. However, the use is reasonably similar in type and intensity to the longstanding grain elevator operation, and it will not alter the existing level of activity on the site. Further, with commitments made by the applicant, this proposal reflects the long established non-residential nature of the site.

(2) Current conditions and the character of current structures and uses in each district;

The Commission finds that the proposal is consistent and compatible with the character of current structures and uses in the zoning district. The historical use on the site has been light industrial in character. Further, with commitments made by the applicant, the establishment of an industrial district will not change the nature of the area and the approved uses on this site.

(3) The most desirable use for which the land in each district is adapted;

The Commission finds that the proposal does represent the most desirable use for which the land is adapted. The site has been used for a grain elevator for over 30 years. Distribution at this location is established and longstanding. Rezoning the site to an industrial zoning classification will permit better regulation of industrial activities.

(4) The conservation of property values throughout the jurisdiction;

The Commission finds that the proposal does conserve property values in the jurisdiction. The proposed use is consistent with the established use on this site. Moreover, screening the site as a consequence of this rezoning will have a beneficial influence on property values.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth. Relatively intense light industrial activity at this location is well established. Although the Comprehensive Plan specifies agricultural uses for the area, the existing grain elevator operation constitutes an accepted and appropriate light industrial use related to agriculture. The addition of a limited number of additional light industrial uses through rezoning will have no effect on the compatibility or intensity of these operations.

Also subject to:

1. The Development Commitment Recording Form presented at the hearing.
 - a. These commitments shall be recorded within 30 days of approval by the Hendricks County Board of Commissioners.
2. Landscaping shall be provided that obscures the stationary tank with trees or shrubs immediately to the east of the tank; along the length of the tank, and extending north and south of the ends of the tank 25

feet, with a reasonable level of landscaping as determined by the Zoning Ordinance minimum planting standards. The landscaping plan shall be subject to staff review and approval.

3. No retail sales of tanks on the property.
4. Propane tanks other than the stationary one shall be stored on the west side of the property.

ZA 395/09: WEST CENTRAL INDIANA PLUMBING, INC.; a zoning amendment change from AGR/Agriculture Residential District to GB/General Business District, 1.55 acres, Center Township, S30-T16N-R1W, located on the north side of State Road 236, approximately 0.50 mile west of County Road 200 West. (Comer Law Office)

Mr. Ben Comer of the Comer Law Office and Mr. Justin Dorsey of West Central Indiana Plumbing appeared.

Mr. Comer reviewed the history of the site, which used to be a communications site built in the 1950's. He stated that currently it had been used as a roofing contractor business. He stated it had always carried a residential zoning classification but never used as residential. He stated that because of the improvements on the site, it would be unlikely it would ever be used for residential purposes. He stated they believed that the right types of commercial uses would fit on the site. He stated they were proposing a limited general business zoning district classification, limited in that they would restrict many of the uses that were on the site. He stated there were 59 uses allowed in that district and they were excluding 40 of them or the more intense uses. He stated that they did not feel the proposed use would change the character of the neighborhood. He stated also that the petitioner did reside in that area near the site. He stated that not a lot of improvements were going to be needed for a plumbing contractor business. He stated that the interior of the building would need to be remodeled but the outside area already contained a hard surface which would need parking space striping, landscaping and signage. He stated that a positive factor was that the site would be cleaned up as part of the process and no outside storage would be allowed in the proposed district. He stated that the staff was recommending approval and he had reviewed the conditions in the staff report and found them acceptable. He then reviewed their proposed landscaping and parking space plan.

Mr. Wathen asked if the applicant was in agreement with the recommendations for approval by the staff.

Mr. Comer stated yes.

Mrs. Groves asked Mr. Comer to read through the proposed list of permitted uses.

Mr. Comer complied as follows:

- Essential services, both minor and major
- Publicly owned buildings and facilities
- Motor vehicle repair & service, minor
- Commercial services
- Daycare
- Lawn care, landscaping
- Storage
- Administrative office
- Data processing
- Medical & dental laboratories
- Radio or TV station
- Vet clinic
- Tool & die shop
- Community center
- Impound facility
- Motor vehicle repair & service, major

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- Boat storage
- Contractor services

Mr. Whicker asked if the applicant had committed to no outside storage.

Mr. Comer stated that was correct and outside storage was not allowed in the GB district.

Mr. Whicker asked if there were provisions being made on their site plan for outside storage of materials.

Mr. Comer stated no and that all storage would be indoors.

Mr. Whicker asked if the proposed use, if approved, ever changed, outside storage would not be allowed. He stated he had asked this question because of the use allowed of landscaping services.

Mr. Reitz stated that there would be no outside storage allowed in this district regardless of the use.

Mrs. Johnston stated she did not think a daycare center would fit at that site and also lawn care and landscaping, as she believed that type of business would require outdoor storage. She asked Mr. Comer to exclude those uses as permitted.

Mr. Comer stated that they would not be against excluding the daycare use but because of an existing four bay garage on the site, they would not be willing to exclude a lawn care without the landscaping use. He stated that with that type of business, the lawn care equipment could be stored inside the garage.

Mrs. Ternet stated that the use was listed as lawn care & landscaping.

Mr. Wathen stated that he felt that was okay as listed because outdoor storage was not allowed in that district.

Mr. Comer stated then that they would strike the daycare use.

Mr. Whicker called for further questions or comments. There being none, Mr. Whicker opened the public hearing. There being no one signed up to be heard, Mr. Whicker closed the public hearing and called for a motion.

Mr. Wathen then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners and adopt the positive Findings of Fact/Law for **ZA 395/09: West Central Indiana Plumbing, Inc.** subject to the following conditions:

1. Staff recommendations for approval in letter dated March 3, 2009; and
2. All self-imposed conditions of use made by the petitioner's representative.

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, March 24, 2009 at 9:30 a.m. or thereafter.

The staff recommendations and Findings of Fact/Law were as follows:

Staff Comments: | The site under consideration consists of two parcels approximately 1.5 acres in size and currently zoned AGR/Agriculture Residential. The applicant has requested a rezoning to change the parcels from AGR/Agriculture Residential to GB/General Business to allow an

existing block non-residential building to be utilized for a plumbing contractor business.

Compatibility with current uses. This area is a mix of agricultural and low-density residential uses. The block non-residential building is a well-established non-residential use. The site has been consistently used for non-residential purposes for over 50 years.

Compatibility with futures uses. The Comprehensive Plan recognizes this area for Agricultural uses on the land use plan. Although this is a long-standing use, the existing block building, outbuildings and large radio communication towers do not fit within this category. State Road 236 is classified as a Rural Minor Arterial. The Comprehensive Plan encourages non-residential activities to have access to major corridors.

Other considerations. This site was originally built as a communications facility with the block non-residential buildings, outbuildings and large radio communication towers. It is unlikely that this property will ever be used for residential purposes.

The applicant has proposed landscape buffering between adjacent residences. The Plan Commission may want to query the applicant on the specifics of his screening plan, especially as it pertains to State Road 236 and adjacent residences to the east and west.

The applicant has submitted a limited list of permitted and special exception uses that will be allowed based on a rezoning. Any commitments made during this current application must be recorded on a Development Commitment Recording Form within 30 days of approval.

This property is not in an area served by a public wastewater treatment plant. A commercial on-site sewage disposal system for this property and for the proposed use will have to be approved by the Indiana State Department of Health. A Hendricks County Health Department permit for the system will also be required.

While sight distance at both driveways is marginal and Staff still has some concerns, INDOT is comfortable with the driveway locations with the following conditions:

1. Applicant must commit to controlling the drives to use the east drive for eastbound traffic only (left-in and left-out only) and the west drive for westbound traffic only (right-in and right-out only). Signs must be posted accordingly.
2. Arrangements must be made with INDOT to post "Trucks entering highway" warning signs at appropriate distances each direction.

Staff
Recommendation:

Based on the information provided at the time of application, staff recommends the Plan Commission recommend: **APPROVAL** in the event the petitioner commits to installing landscaping in a timely manner; restricting land uses; and meeting INDOT's conditions.

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Findings of Fact/Law

ZA 395/09: West Central Indiana Plumbing, Inc.

An application for the above noted zoning map amendment was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to rezone a property from AGR/Agriculture Residential to GB/General Business. Acting in its role as staff to the Hendricks County Area Plan Commission, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the department's office at the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1, the DPB staff published a legal notice in the *Hendricks County Flyer* and the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with the Hendricks County Area Plan Commission Rules of Procedure Section 3.07(D)(1). The public hearing included the above zoning map amendment on its agenda.

In accordance with Section 3.07(D)(2) of the Rules of Procedure of the Hendricks County Area Plan Commission, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this rezoning petition.

The Commission conducted the hearing as advertised and heard evidence and testimony on the above noted rezoning. Meeting in open session, the Commission subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and the Hendricks County Zoning Ordinance. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Commission weighed the evidence associated with the following requirements and made the following findings.

IC 36-7-4-603: Zoning ordinance; preparation and consideration of proposals. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:

(1) The comprehensive plan;

The Commission finds that the proposal does not substantially comply with the recommendations of the Hendricks County Comprehensive Plan. The Comprehensive Plan designates this area for agricultural uses. The use of this site for a plumbing contractor business is not related, nor does it appear to support agriculture. Plumbing contractor business does not substantially comply with the Comprehensive Plan designation for agricultural uses. However, the non-residential use proposed is similar in type to the historic non-residential uses on this site.

(2) Current conditions and the character of current structures and uses in each district;

The Commission finds that the proposal is consistent and compatible with the character of current structures and uses in the zoning district, though visually intrusive. The historical use on the site has been non-residential, specifically communications. Further, with commitments by the applicant, the establishment of a commercial district will not substantially change the nature, intensity or character of the approved uses on this site.

(3) The most desirable use for which the land in each district is adapted;

The Commission finds that the proposal does represent the most desirable use for which the land is adapted. This site has been used for non-residential purposes for over 50 years. Rezoning the site to a commercial zoning classification will reflect the well-established non-residential use of the site.

(4) The conservation of property values throughout the jurisdiction;

The Commission finds that the proposal does conserve property values in the jurisdiction. The proposed use is consistent with the established non-residential use on this site. Moreover, buffering the site as a consequence of this rezoning will have a beneficial influence on property values.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth. Although the Comprehensive Plan specifies agricultural uses for the area, non-residential activity is well-established at this location and rezoning will not significantly change the site or surrounding area.

Also subject to:

1. Development Commitment Recording Form received March 11, 2009. These commitments shall be recorded within 30 days of approval by the Hendricks County Board of Commissioners

MAP 716/09 (AMENDMENT): THE RESERVE AT FOREST COMMONS, SECTION 1; an amendment to an approved 1-lot major subdivision, 9.5 acres, Washington Township, S35-T16N-R1E, located west of Forest Commons, Section 1 and south of Forest Commons, Section 3. (Kruse Consulting, Inc./Wonderwall Land Development Services)

Mr. Michael Sells of Wonderwall Land Development Services appeared on behalf of the applicants, Tim Marcum and Christine Tillman. He reviewed the location of the property. He also pointed out the adjoining Minor Plat 969 on which the Stall family had constructed a home. He stated when that particular minor plat was approved, there was a commitment that the 120 feet of right-of-way dedicated as part of the plat, would be upgraded to county standards if any further development occurred. He stated that at an earlier meeting on the subject Major Plat 716, the Commission had stated they would be willing to rescind that commitment for Minor Plat 969 and place it on Major Plat 716 to upgrade the right-of-way if further development occurred. He stated his reason for the amendment to the subject major plat was to again rescind that commitment to upgrade the road.

Mr. Whicker asked for comments or questions. There being none, Mr. Whicker opened the public hearing.

Mr. Ronald Prokup of 7523 Meadow Violet Court, appeared. Mr. Prokup stated it was his understanding that for Phase I of the major plat, there would only be one home developed on the approximately nine acre site. He stated that if the waiver was granted at this meeting for upgrading the right-of-way to county standards, he had two requests to be documented. He stated that the first request would be that upon further development of Phase I, the appropriate roads were constructed to Subdivision Control Ordinance codes, applicable county or state codes and safety standards as appropriate for a subdivision and secondly, the developers and not the taxpayers of the county had the responsibility and burden to construct such roads to safety standards and applicable codes upon further development on Phase I.

Mr. John Bayer of 7609 Meadow Violet Court appeared and stated he would pass on his comments as Mr. Prokup had expressed his same concerns.

There being no one else signed up to be heard, Mr. Whicker closed the public hearing.

Mr. Mike Sells responded to Mr. Prokup's requests. He stated that they were committing to constructing the road per the county standards and specifications that would fall under jurisdictional improvements and as per said private development, the burden for that construction would fall in the hands of the petitioner. He stated in other words, they were agreeable to Mr. Prokup's statements.

There being no further questions or comments, Mr. Whicker called for a motion.

Mr. Cain made a motion to grant approval for **MAP 716/09: The Reserve at Forest Commons, Section 1 (Amendment)** subject to the following conditions:

1. Conditions and recommendations in staff's letter dated March 3, 2009; and
2. All commitments made by the petitioner.

Mrs. Johnston seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

The conditions and recommendations were as follows:

DRAINAGE CONDITIONS:

1. Subject to Drainage Board approval and the conditions of the County Surveyor.

STAFF RECOMMENDATIONS:

1. This lot must follow the Estate Subdivision Architectural Standards in addition to any applicable requirements in the Hendricks County Zoning Ordinance and Subdivision Control Ordinance.

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2. The applicant must re-record the plat within 30 days of approval with the following statement on the plat:

The petitioner(s), their successors and assigns, shall extend infrastructure improvements to the boundaries of said lot, in accordance with the Hendricks County Subdivision Control Ordinance if such lot would ever be further subdivided in the future.

3. The applicant is proposing to keep the existing apartment structure to use as personal storage the structure must be gutted, besides the bathroom, and a letter submitted stating the structure will not be used as a single family dwelling. This must be done within 60 days of approval and will be subject to inspection.

CONDITIONS OF APPROVAL:

1. A properly executed County/Owner Inspection Agreement must be provided prior to secondary approval with all appropriate fees paid prior to the start of any construction.
2. This project is subject to the National Pollutant Discharge Elimination System (NPDES) General Permit covering storm water quality. Procedures there under are governed locally by the Hendricks County Stormwater Management Ordinance and corresponding Technical Standards Manual. An application, fees, construction plans, specifications and Stormwater Pollution Prevention Plan must be presented for approval to the Hendricks County Drainage Board separately from the application to the Hendricks County Area Plan Commission. Secondary Stormwater Approval for a plat, PUD or development plan must be obtained from the Drainage Board prior to Secondary Approval (or Approval in the case of minor plats) by the Plan Commission or its Administrative and Plat Committee. In addition, a Clean Water Permit issued by the Hendricks County Surveyor/ Clean Water Department is required for individual building lots prior to obtaining a Building Permit from the Planning and Building Department.
3. The Hendricks County Planning and Building Department must be notified at least seventy-two (72) hours prior to any site improvements being installed.

That concluding the main agenda items, Mr. Whicker called for any staff discussion.

Mrs. Ternet then discussed the staff's work on amendments to the Subdivision Control Ordinance to specifically Appendix C, which dealt with recording plats, certificates and notations. She explained that the amendment would clean up notations that were not being used and adding some language. She stated that the members would receive the amendments in their packets for April.

Mr. Wathen then asked if the staff had received any comments back on a possible warehouse being constructed by a development company called Clayco out of the State of Missouri and which was to be located at the I-70 and State Road 39 area. He stated that the preliminary plans had been reviewed by the staff.

Mr. Reitz briefly discussed conversations the staff had had with said company representatives.

Mr. Reitz then discussed another matter having to do with spot zoning and the definition of it.

There being no further discussion, Mr. Whicker adjourned the meeting at 8:11 p.m.

Don F. Reitz, AICP, Secretary