

May 12, 2009

A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, May 12, 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; Mr. Greg Steuerwald, County Attorney; Mrs. Cathy Grindstaff, Environmental Health Director; 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 April 14, 2009 meeting.

There being no corrections or additions, Mrs. Groves made a motion to grant approval for the April 14, 2009 minutes.

Mrs. Johnston seconded the motion.

FOR – 6 –                      AGAINST – 0 –                      ABSTAINED – 1 –

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

**DPR 418/09 (PRIMARY): AACME AUTO PARTS & TOWING;** a development plan review to conduct an auto salvage operation, 18.1 acres, Franklin Township, S13-T14N-R2W, located at the northwest quadrant of the intersection of U.S. Highway 40 and County Road 300 West, more commonly known as 3110 West U.S. Highway 40, Clayton. (Benchmark Consulting, Inc.)

**DPR 418/09 (SECONDARY): AACME AUTO PARTS & TOWING;** a development plan review to conduct an auto salvage operation, 18.1 acres, Franklin Township, S13-T14N-R2W, located at the northwest quadrant of the intersection of U.S. Highway 40 and County Road 300 West, more commonly known as 3110 West U.S. Highway 40, Clayton. (Benchmark Consulting, Inc.)

Mr. Bruce Hazelgrove of Benchmark Consulting, Inc., Mrs. Amy Broderick of the Comer Law Office, and Mr. Don and Danny White of Aacme Auto Parts & Towing appeared.

Mr. Hazelgrove reviewed the zoning history and location of the proposed site and project. He then discussed the existing site improvements. He stated that the existing residence on the site would not be used at this time. He stated that there were three existing barn structures which would be utilized for the proposed project. He stated that there were two stone driveways existing and those would remain. He stated that the westernmost drive would be improved for use by the proposed auto salvage business. He stated that at the rear or north end of the property, there was an area enclosed with a six-foot privacy fence. He then reviewed their proposals for mounding and landscaping, improvements to the existing west entrance drive, loading zone and handicapped parking area, additional parking for employees and visitors, modifications to an existing building to be used as a demolition building, and the proposed rear stone parking area for storage of salvage and impound vehicles. He then stated at the rezoning hearing, there were several commitments made by Mr. Don White relating to site improvements to the property. He stated that he was focusing his comments on the zoning commitments that related to the site plan now before the Commission. He stated that Mr. White was aware of the other commitments that did not relate to the current approval being requested and he was still in full agreement with all of the other commitments as well.

Mr. Hazelgrove then reviewed the applicable commitments to this application. He stated that there would be constructed a three to five foot mound along the U.S. Highway 40 frontage with five foot tall evergreens every fifteen feet on top of the mound. He stated that there would be two evergreen

shrubs placed between those trees on top of the mounding. He then showed where the mounding would begin and end on the property. He stated there were also requirements in the zoning ordinance for street tree plantings as well as buffer yard plantings, which would be provided. He stated that the next four commitments related to methods for fluid removal, vehicle demolition, how that process would be handled and modifications to an existing building for those operations, how gasoline would be removed from the vehicles, how auto gas tanks would be removed on a concrete pad, secondary containment next to the demolition building and all other demolition taking place inside of the building. He stated that the floor of the barn where fluids were drained must be concrete, secondary containment features constructed around the perimeter of the barn where the demolition takes place and consisting of a concrete barrier coated and extending six inches above the ground and also the removal of gasoline taking place on an impervious surface with secondary containment using peristaltic pumps. He then discussed the existing steel frame building on the site to be used for the demolition building. He stated that building would be modified as part of the DPR approval to provide the secondary containment that was committed to in the rezoning. He stated that a six inch curb would be constructed inside of the building and coated with polyurethane. He then described some of the other modifications to be made on the containment building. He stated that a concrete pad would also be constructed adjacent to the containment building to house the portable crusher when it was brought in. He stated that the last commitment relating to the site plan was parking for impound cars, cars to be demolished and recycled and employee and customer parking. He stated that the entrance drive would be widened to twenty-eight feet and the apron and driveway would be hard surfaced paved back to and including the handicapped space and unloading space. He stated that six parking spaces would be provided for employees and visitors or a total of seven spaces. He then reviewed site views of the property to show how effective their proposed mounding and landscaping would be as a buffer along U.S. Highway 40. He then stated that they were in agreement with all of the staff recommendations and conditions in staff's letter dated May 5, 2009. He stated that one of the requirements was that they provide two percent of the total acreage of the site in open space and he showed how they would comply with that requirement. He stated that they had submitted to staff an easement document to be recorded.

Mr. Whicker asked about turning movements off of U.S. Highway 40 and what were the Indiana Department of Transportation (INDOT) requirements.

Mr. Hazelgrove stated there was an existing entrance drive which was being widened per the zoning ordinance to twenty-eight feet. He stated that they had submitted an application to INDOT for approval of the existing drive but they were waiting upon receipt of the permit before making those improvements.

Mr. Whicker stated that further east on the westbound lanes, the road surface was lower than the adjacent property and he also commented on the open space requirement and whether or not that requirement made sense for this project.

Mrs. Groves asked Mr. Hazelgrove to point out where the open space would be located and she asked if he had addressed recommendation #3 regarding the opaque fence.

Mr. Hazelgrove responded that they had a signed agreement with the property owner to the west that he was consenting to the fence encroaching on his property.

Mr. Cain asked if the fence would continue to be maintained by the owner.

Mr. Hazelgrove stated yes.

Dr. Hodgkin stated he was unclear of the applicant's intent as to the existing residence.

Mr. Hazelgrove stated that the zoning commitments addressed the use of the existing residence. He stated that for now it would remain vacant and they would be required to come back before the Commission when they were ready to use that existing structure and renovate it for office space.

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Mr. Cain asked how tall the opaque fence on the west side of the property was.

Mr. Hazelgrove stated it was a wood six foot privacy fence and he pointed out the locations of the fences on the property.

Mr. Don White appeared to discuss the fences. He discussed the locations of the fencing on the property.

Mrs. Groves asked what would happen if they did not receive approval for their INDOT permit.

Mr. Steuerwald stated that INDOT had the authority with any determinations made by them.

Mr. Cain then asked what the zoning ordinance indicated regarding maintenance of trees on the site.

Mrs. Ternet stated that they were under a two year maintenance agreement.

Mr. Whicker asked if there was anything in the ordinance regarding maintenance of the fencing.

Mr. Reitz stated there was no requirement in the ordinance but there would be an approval by the Plan Commission regarding the fence which would be part of the compliance with the development plan approval.

Mrs. Groves asked again about landscaping maintenance.

Mrs. Ternet stated there was a provision in the ordinance for one year maintenance but that if there was a bond submitted, then that maintenance bond would be for a three year period.

Mrs. Ternet also commented that in regard to the existing house, the applicant had one year to either convert the house into an office or raze it from the date of the recording of the zoning commitments, which was March of 2009.

Mrs. Groves then asked about sanitary facilities for the residence or any other facilities for the employees of the auto salvage business.

Mr. Don White stated that there was no septic system for the house. He stated that until they decided to renovate the house, they would probably be using portable toilets for the site.

Mrs. Grindstaff stated that OSHA requirements would determine the type of facilities required as to the number of employees.

Mr. Whicker then discussed the exit from the property with the cross drive over the median on U.S. Highway 40. He stated he felt that would be dangerous.

Mr. Hazelgrove stated that INDOT would be reviewing the existing drive and cross drive at the site. He stated that the existing structures on the site would prohibit moving the drive further west.

Mr. Whicker asked if a decel lane could be required by the Plan Commission even though there was no report received as yet from INDOT.

Mr. Reitz stated that the Commission could not make that requirement until INDOT gave its approval on the requirements for that section of U.S. Highway 40.

There being no further questions or comments, Mr. Whicker opened the public hearing.

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Mr. James Musick, 7408 South County Road 300 West, appeared. He stated that he resided across the highway from the proposed site. He expressed his concerns regarding approval for a project without a well and septic system and stated he was against the use of portable facilities. He stated he was concerned regarding the cross over on U.S. Highway 40 that he felt would not be wide enough for trucks and he hoped that INDOT looked carefully at the project site. He stated his concerns regarding the maintenance of the proposed landscaping that would screen the property from his view. He stated his concerns regarding the owner's maintenance of the site and the cost of cleaning up the property. He stated his concern that the owner might bury the refuse on the site rather than having it hauled away. He stated he felt the Commission should not allow the operation of the business to begin prior to all requirements being met. He also asked who had the authority to inspect the site for compliance with the commitments and requirements of the zoning ordinance.

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

Mr. Whicker stated he hoped that INDOT would also look at the site carefully before making their determination. He stated that it was his understanding that there was an agreement between IDEM and Mr. White as to a schedule and method of cleaning up the site.

Mrs. Grindstaff stated that as of the previous week, IDEM had informed them that there was as yet no agreement but something was expected within thirty days.

Mrs. Broderick appeared and responded that there had been conversations with IDEM for about a year and a half and she had received a document from them that had to be sent back for revisions.

Mr. Whicker asked if Mr. White was the owner of the property.

Mrs. Broderick stated that was correct.

Mr. Whicker asked about the agreement with IDEM and he asked if it was correct that they were going to allow the owner a period of years to clean up the site.

Mrs. Broderick stated that was correct.

Mr. Whicker asked if IDEM would periodically then supervise or review that cleanup process to avoid the burial of any of the refuse on the site.

Mrs. Broderick stated yes and that IDEM expected to do an inspection every quarter.

Mr. Whicker then asked Mrs. Grindstaff about the available water and sewer for the site and since there were no new structures being built, it would not come under review from her department.

Mrs. Grindstaff stated that was correct and that the existing home had property to the east of it that could be used for a system that would need to be approved by the State Board of Health for a commercial facility. She stated Mr. White would then apply at her department for a permit and approval to construct the system. She stated she thought there was a well on the site.

Mr. White stated there was a well on the property.

Mr. Whicker then stated that because there were certain existing conditions on the site, a septic system could not be required at this time. He stated, however, that could change in the future under certain conditions. He then discussed the disposal of the fluids and the commitments regarding said disposal.

Mrs. Grindstaff stated that her office would not conduct routine inspections on the site but would respond to complaints.

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Mr. Reitz stated that the Planning & Building staff could enforce the commitments of the development plan.

Mr. Whicker then stated that there would not be routine inspections and he asked if there was a state ordinance governing this type of business.

Mrs. Grindstaff stated that the state had looked at salvage operations in recent years and there were numerous regulations governing them.

Mrs. Broderick stated that Mr. White had to renew his salvage license every year.

Mr. Whicker asked Mrs. Broderick if that renewal would be contingent upon an inspection.

Mrs. Broderick stated she was not sure of that.

Mrs. Johnston asked if the permit obtained by Mr. White in Marion County would also be valid in Hendricks County.

Mrs. Broderick stated no and that she was talking about a state permit.

Mr. Steuerwald then clarified that if the commitment for plantings was part of the development plan review, then the maintenance bond would be for three years. He stated, however, that he was of the opinion that if it was part of the approval process, the applicant could be required to maintain those plantings similar to maintenance of the fencing.

Mr. Cain stated he was glad to know that.

Mrs. Groves asked Mr. Reitz if he would go over the steps for completion of the requirements prior to the operation of the business.

Mr. Reitz stated that there was nothing to require restroom facilities other than what the applicant could provide and Mr. White had stated he would provide portable facilities. Mr. Reitz stated, however, if the existing residence was used as an office, then the development plan would need to be amended and a permit would be needed to renovate the house and to install the septic system and possibly a well.

Mrs. Groves then asked what other items needed to be completed prior to the operation of the business.

Mr. Reitz stated that those items could be done concurrently with the operation of the business since they were not building any new structures.

Mr. Wathen asked what time period did the applicant have to complete the landscaping.

Mr. Reitz stated it would be by the end of the current growing season.

Mrs. Ternet stated that normally the building permit could not be obtained until all the improvements were completed or a bond posted. She stated that since all the structures were existing, a building permit was not needed.

Mrs. Groves then asked if the development plan were granted approval, the applicant could then begin bringing in autos, etc. without completing the improvements.

Mr. Reitz stated that they could improve the parcel concurrent with conducting their business.

Mrs. Broderick stated that certain improvements had to be completed prior to certain operations beginning. She said that impounding could possibly be started but demolition would require the

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secondary containment to be completed. She stated that retail sale of the parts could begin right away and the impounding.

Mr. Reitz stated that one of the commitments did state that within 90 days of the applicant receiving title to the property, the landscaping had to be completed.

Mr. Musick then commented that he felt the parts store could not begin operation since transmission and engine parts could not come out of the autos without the containment building completed first.

Mrs. Broderick stated that her point was that the used auto parts would not be coming from demolition on the subject property but from another facility in Indianapolis owned by Mr. White.

Mr. Whicker then asked if there would be any new or additional lighting installed.

Mrs. Broderick stated that there was no new lighting being proposed at this time.

Mrs. Groves then asked about security lighting on the buildings.

Mr. Reitz stated that they were not proposing to install any new lighting.

Mrs. Broderick stated that was correct.

Mrs. Groves asked if they would need to modify the development plan approval if they installed lighting at a later time.

Mr. Reitz stated no. He stated that they would be installing lighting on existing buildings and they would be required to meet the zoning ordinance regulations for light trespass.

Mr. Wathen asked if there would be any storage of vehicles in front of the mounding.

Mrs. Broderick stated no.

Mr. Steuerwald then asked Mrs. Broderick to inform the commission members on the date of the closing for the sale of the property to Mr. White.

Mrs. Broderick stated that the closing was on March 12, 2009.

Mr. Steuerwald then stated that meant they had only thirty days left to complete the landscaping improvements.

Mr. Whicker then stated that since there were no permits required at this time, it would be difficult for the staff to track when the improvements were completed. Mr. Whicker stated that it was a commitment that ninety days from the sale of the property, the landscaping was required to be completed. He asked for suggestions from the members on how the staff might track the completion of the required improvements.

Mr. Reitz stated that the staff was willing under the Commission's direction to review every ninety days with Mr. White what improvements had been and were to be completed.

Mrs. Johnston stated that the applicant also had ninety days to remove the sanitary fixtures from the existing residence.

Mrs. Broderick stated that had been completed already.

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Mr. Whicker then stated that the applicant must complete containment and other items prior to commencement of their business and he stated they would not expect to see some of the operation commencing until then. He stated it would be the applicant's burden to notify staff when those improvements had been made so that an inspection could take place.

Mrs. Broderick stated that Mr. White had already hauled away about one thousand yards of trash.

Mr. Reitz stated that the reclamation of IDEM violations should be completed within two years of the recording date and reclamation of the remainder of the forty acres shall be completed within five years. He stated this indicated there was a timeline.

Mrs. Broderick stated that was correct as to the cleanup of the property.

Mr. Whicker then stated he was concerned about the driveway improvements and he wanted to see some type of timeline for completion of those improvements.

Mrs. Broderick then stated after conferring with Mr. White that those driveway improvements should be completed by the end of 2009. She stated that there would be some truck traffic prior to that time, however. She stated that one of the main problems was that Mr. White had invested so much into the cleanup of the property prior to owning the property. She stated that his next concern was to meet the timeline for installation of the landscaping.

Mr. Whicker stated he was concerned about the driveway being large enough to accommodate truck traffic in and out and being as safe as possible.

Mrs. Broderick then asked if he was more concerned with the width rather than completing the hard surface.

Mr. Whicker stated that he was concerned more with the size or width of the driveway.

Mr. Wathen stated that the County did not have control over the state road but as part of the development plan review, the ordinance required the drive to be twenty-eight feet wide and he asked if there was any requirement for concrete or could it be a gravel drive.

Mrs. Broderick stated it was required to be a hard surface.

Mr. Whicker stated he was not pressing for the hard surface to be done but the width to be completed as soon as possible.

Mr. Wathen asked what the current width was.

Mr. Hazelgrove stated he estimated around fourteen feet wide.

Mrs. Broderick stated that Mr. White could widen and gravel the entrance by August 1, 2009.

Mrs. Groves then asked what size of truck would be using the entrance.

Mr. Don White stated semi trucks would be using the entrance after August 1st. He stated that there would be standard rollbacks and wreckers which were single axle, one ton vehicles using the entrance.

Mr. Whicker asked how many impound vehicles would Mr. White estimate to be coming into the site.

Mr. White stated he could not say at this time.

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Mrs. Broderick stated that one of the commitments stated there would be no more than 200 accumulative cars at any time.

Mr. Whicker asked if impound vehicles were brought in normally on a wrecker or flat bed truck.

Mr. White stated yes.

Mr. Whicker stated that agreeing to widen the drive and gravel it would alleviate his major concern regarding the project.

Mrs. Johnston asked how wide would the driveway be.

Mr. White stated it would be widened to twenty-eight feet.

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

Mrs. Groves then made a motion to grant primary approval for **DPR 418/09: AACME Auto Parts & Towing (Primary)** subject to the following conditions:

1. Recommendations and conditions in staff's letter dated May 5, 2009;
2. Widening of main driveway to 28 feet by August 1, 2009;
3. Completion of hard surfaces on designated areas by December 31, 2009;
4. Review by staff of progress on completion of development plan improvements to zoning commitments on a 90 day basis and staff to be notified by petitioner when requirements/commitments have been completed; and
5. Containment commitments to be completed prior to commencement of salvage operations.

Mr. Cain seconded the motion.

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

Mrs. Groves then made a motion to grant secondary approval for **DPR 418/09: AACME Auto Parts & Towing (Secondary)** subject to the following conditions:

1. Recommendations and conditions in staff's letter dated May 5, 2009;
2. Widening of main driveway to 28 feet by August 1, 2009;
3. Completion of hard surfaces on designated areas by December 31, 2009;
4. Review by staff of progress on completion of development plan improvements to zoning commitments on a 90 day basis and staff to be notified by petitioner when requirements/commitments have been completed; and
5. Containment commitments to be completed prior to commencement of salvage operations.

Mr. Cain seconded the motion.

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

The staff recommendations and conditions were as follows:

**DRAINAGE CONDITIONS:**

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

**STAFF RECOMMENDATIONS:**

1. The project engineer must provide an estimate of construction cost and post a performance guarantee prior to the issuance of an Improvement Location Permit.
2. The applicant is requesting to modify the required Type 4 - 75 foot buffer yard width by utilizing a proposed mound along U.S. Highway 40. The applicant also proposes to utilize the existing opaque fence that runs along the western property line to the northern extent of the MI zoning in lieu of providing the required buffer yard width in that area. The Plan Commission has the authority to accept this modification (HCZO 7.5(M)).
3. The applicant is also requesting to modify the required Type 4 buffer yard screening by allowing the existing opaque fence with minimal plantings along the western property line, and the fence along the northern extent of MI zoning instead of providing the required plantings. Acceptance of the above is a modification the commission has the authority to make (HCZO 7.5(M)).
4. As part of the new Open Space requirement, 2% of the total acreage of this site (0.8 acres) has been proposed but not preserved as open space through an easement approved by the County Attorney. The easement must be approved by the County Attorney prior to Secondary DPR approval, recorded prior to issuance of a building permit, and labeled with instrument number on final set of plans.
5. The applicant is using an off-site fence as screening along the western property line and screening for outdoor storage. If the existing fence is acceptable as the only buffer yard screening, an agreement from the adjacent property owner must be provided stating that the fence will remain. The agreement must be approved by the County Attorney prior to Secondary DPR approval.
6. Soy oil over crushed stone will be used as a dust control agent on the expanded parking area as approved by the County Engineer. The entrance drive, loading space and handicapped space will be concrete or paved with asphalt.
7. Any future improvements to the existing house or proposed future entrance drive will require an Amendment to this Development Plan approval.
8. This property is subject to commitments that require periodic inspection of the site.

**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, an Erosion Control Permit issued by the Hendricks County Surveyor is required for individual building lots prior to obtaining a Building Permit from the Planning and Building Department.
3. The existing residence discharges sewage to a field tile. The applicant has stated that this structure will not be utilized at this time. The plumbing fixtures within the home must be removed and an inspection by Health Department staff conducted to verify compliance within 90 days of DPR approval.
4. The Hendricks County Planning and Building Department must be notified at least seventy-two (72) hours prior to any site improvements being installed.

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5. The applicant will have two (2) years from the date of approval to obtain an Improvement Location Permit/Building Permit. Should this two (2) year period elapse without the applicant having obtained the appropriate permit, the development plan approval will become null and void.
6. 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.
7. A State Plan Release is also required for multifamily, residential and non-residential (commercial and industrial) projects. In no way will a Development Plan Review be construed as a substitute or a waiver for these other required permits.

That ending the business session portion of the agenda, Mr. Whicker asked for any staff discussion items.

Mr. Steuerwald then presented his findings on a matter before the Court regarding the property of Tom Goode from North Salem. Mr. Steuerwald reported that the Court had found in Mr. Goode's favor and against the County's position. He stated that he felt errors had been made and he wanted to receive a consensus from the Commission to file an appeal on the ruling.

There was discussion among the members on the matter and a consensus was had to go forward with an appeal by the County on the court's ruling.

Mr. Reitz then discussed the changes made to the agenda by adding language concerning how continuances were handled.

Mr. Reitz then gave a discussion on proposed changes to the 2008 Hendricks County Zoning Ordinance on Chapter 9 Sign Standards. He discussed the consistent language between sections, adding agricultural signs in the AGR district, minor corrections, consistency between the text and tables and adding definitions. He stated that a text amendment on the chapter would be prepared.

Mr. Reitz also announced to the Plan Commission that for the first time there were no agenda items scheduled for next month's meeting.

Mr. Whicker then asked Mr. Reitz what type of residential and commercial building permits had been applied for with the Planning & Building Department.

Mr. Reitz stated that they were down substantially from 2008 but that their collections were not down. He stated that the text amendment for the sign ordinance changes could be presented as an agenda item at the June meeting.

Next, Mr. Whicker asked Mr. Reitz if he had done any research with other counties on handling large residential subdivision applications.

Mr. Reitz stated that he had contacted some other counties on that matter and would prepare a presentation for the Commission.

Mrs. Groves stated she would like to learn more regarding wind turbines.

Mr. Cain stated he was interested but wanted to make sure they had the latest information on this new technology.

The members asked Mr. Reitz to explore the matters further and report back to them as well as present the sign ordinance text amendment at the June meeting.

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There being no further discussion, Mr. Whicker adjourned the meeting at 8:04 p.m.

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Don F. Reitz, AICP, Secretary