

July 14, 2009

A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, July 14, 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; Mr. John Ayers, County Engineer; Mrs. Cathy Grindstaff, Environmental Health Director; Mr. Brett Pickett, Deputy Surveyor; 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 five (5) 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 June 9, 2009 meeting.

There being no corrections or additions, Mrs. Groves made a motion to grant approval for the June 9, 2009 minutes.

Mrs. Johnston seconded the motion.

FOR – 5 – AGAINST – 0 – ABSTAINED – 1 –

It was noted here that Mr. Eric Wathen arrived at the meeting making a quorum of six (6) members.

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

DPR 419/09 (PRIMARY): PROJECT CENTERLINE; a development plan review to construct a warehouse distribution building, 90.9 acres, Liberty Township, S26-T14N-R1W, located on the north side of County Road 1000 South and west of State Road 39. (Paul Kite Company/ForumStudio)

DPR 419/09 (SECONDARY): PROJECT CENTERLINE; a development plan review to construct a warehouse distribution building, 90.9 acres, Liberty Township, S26-T14N-R1W, located on the north side of County Road 1000 South and west of State Road 39. (Paul Kite Company/ForumStudio)

Mr. Jerry Williams of Paul Kite Company and Mr. Greg Ernst of Clayco appeared on behalf of the proposed project. Mr. Williams stated that the project would be located in the area of the 70 West Commerce Park. He stated that the first building being constructed would be on 95 acres and 1.1 million square feet. He stated it would be constructed as a standard warehouse and a LEED certified building. He stated it was located in the northern portion of the Phase I area. He stated the access would be the approved road to be known as 70 West Boulevard. He then showed a site plan of the building and discussed the details. He discussed the security fence which would be an eight foot tall black architectural. He stated that a variance application was before the Board of Zoning Appeals for the eight foot tall fence. He then asked for questions from the Commission.

Mr. Whicker asked if LEED was the only certification being received.

Mr. Ernst stated that the company had received more points than the basic certification required and they were in discussions to apply for the Silver but that had not been finalized.

Mr. Whicker asked why they had chosen to seek the LEED certification.

Mr. Ernst stated it was because of corporate policy.

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Mr. Wathen asked if they were in compliance with the staff's recommendations.

Mr. Williams stated yes.

Dr. Hodgkin asked how many employees were anticipated to be there during maximum production.

Mr. Ernst replied there would be three shifts 24-7 and for day one it would be in the 300 employee range. He stated that with seasonal work, there would be considerably more.

Dr. Hodgkin stated he had asked that question because of their intention to cut down the width of the parking spaces and whether or not they were struggling to get enough parking for their employees.

Mr. Ernst stated no because the number of employees quoted would be spread over three shifts seven days a week with shift staggering.

Mrs. Johnston asked if the applicant had all of the permits required.

Mr. Reitz stated that everything necessary for a secondary approval had been obtained.

Mrs. Groves asked about the three items listed on the staff's letter that were needed prior to approval.

Mr. Fazzini explained about those items and what had been obtained.

Mrs. Groves asked about the security lighting.

Mr. Reitz stated that for the parking lot lighting there was a twenty-foot height maximum. He stated that did not apply to the security lighting per the staff's interpretation.

Dr. Hodgkin referred to #6e. of the staff's letter regarding the adequacy of the asphalt section in the truck areas and whether what was being proposed by the applicant would be adequate or should it be strengthened.

Mr. Ayers explained that the comment was his suggestion that the applicant might want to strengthen those areas. He stated that the areas next to the proposed building would be concrete where the trailers would be parked. He stated he felt for truck turning movements in the truck areas, the asphalt proposed might be too thin.

Mr. Williams stated that the geotech work had not been done on the facility. He stated when that report came in, there would be a recommendation for the pavement section and they would comply with that report. He stated currently the pavement sections in the plan were estimated based upon rough soil samples.

Mr. Wathen commented on the Memorandum from the staff dated July 7, 2009 containing modifications for the site plan. He asked if those modifications should be included in any approvals made by the Commission.

Mr. Reitz stated that assuming the Commission agreed with the modifications, the staff recommended that any approval be subject to the memorandum and the staff's letter of recommendations and conditions.

Mrs. Groves asked about the memorandum also.

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Mr. Reitz stated that there were a number of modifications being proposed to the ordinance, some of which could be done by the staff and some by the Commission or the Planning Director. He stated that rather than trying to figure it all out and eliminate confusion, the staff had packaged it all together in a single memorandum that the Commission could review and approve.

Mr. Wathen asked if Mr. Whicker had any issues with the proposed modifications.

Mr. Whicker stated he was okay with the modifications proposed. He stated that since this was the first project for the commerce park, standards needed to be established that were appropriate. He stated that to waive some of the standards might be setting a precedent and might be requested by future developers in the commerce park. He then asked the applicant about the modifications they requested and their reasons for those requests.

Mr. Ernst stated that they were a national builder and had observed building standards all over the country. He stated they believed the standards requested would be typical of other areas where they had built. He stated he believed the facility in question was being built above normal standards for a typical distribution park.

Mr. Wathen commented that those items where waivers were requested were being made up for on other areas of the site.

Mr. Cain stated that he shared Mr. Whicker's concerns as the project was large and the modifications being proposed would probably become those used by other developers for the site.

Mr. Wathen commented that he did not believe the modifications to the ordinance were huge changes and he felt that even if other developers requested the same modifications, it would not be a given that they would receive them.

Dr. Hodgkin commented that he believed the modifications being requested would be more of a risk to the applicant than to the public.

Mr. Whicker asked if the amount of asphalt had been reduced as a result of the LEED certification requirements.

Mr. Ernst explained that one of the LEED points was not to add more parking than what was required. He stated that one point that might increase the certification to a silver rating was the heat island effect of asphalt as they might consider upgrading to concrete paving.

Mr. Whicker stated he believed the proposed building would be of as good as or better than the quality of the Plainfield warehouse district.

Mrs. Groves asked about the emergency lane and the truck movement around the complex.

Mr. Ernst explained how the flow of truck traffic would work and the use of the emergency lane.

Mr. Cain asked Mr. Ayers what he thought of the offsets and projections modification request.

Mr. Ayers responded that those were primarily architectural issues and he stated he did not have a strong opinion about them.

Mrs. Groves asked Mr. Ayers if he agreed with the reduction in the aisles from 24 feet to 22 feet.

Mr. Ayers responded that the issue was an internal one that affected the truck circulation. He asked Mr. Ernst if that involved just the employee parking areas.

Mr. Ernst stated that was correct.

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Mrs. Groves asked if there would be customers or visitors to the facility.

Mr. Ernst stated that there would be very few, if any.

Mrs. Groves asked if the parking spaces would be 10 x 20 in size and the reduction requested was just in the aisle size.

Mr. Fazzini stated that was correct.

Mr. Whicker asked if the Liberty Township Fire Department had reviewed the plans.

Mr. Reitz responded that they had been notified of the project.

Mr. Whicker asked 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.

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

Mr. Wathen made a motion to grant primary approval for **DPR 419/09: Project Centerline (Primary)** subject to the following conditions:

1. Recommendations and conditions in staff's letter dated July 7, 2009; and
2. Staff's Memorandum of Modifications dated July 7, 2009.

Dr. Hodgkin seconded the motion.

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

Mr. Wathen then made a motion to grant secondary approval for **DPR 419/09: Project Centerline (Secondary)** subject to the following conditions:

1. Recommendations and conditions in staff's letter dated July 7, 2009; and
2. Staff's Memorandum of Modifications dated July 7, 2009.

Dr. Hodgkin seconded the motion.

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

The staff recommendations and conditions and the memorandum of modifications 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. Staff recommends no construction begin until the Engineer Certification for Waterline Construction is received.
3. The northern property line is short of the Type 3 planting requirement by 28 points. Staff recommends additional plantings be added to fulfill this requirement; plantings also need to be proposed for the eastern 300 feet of the northern property line where there is currently no landscaping proposed.

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4. The applicant has concurrently applied for a variance to permit a fence eight feet tall within the front yard. If this variance is not approved, the construction details will need to be updated to reflect this.
5. All exterior light fixture lenses must be the flat glass option rather than tempered glass or drop lens.
6. The parking lot typical sections shown on Sheet C6.1 should be modified as follows:
 - a. The compacted aggregate must be designated as "Compacted Aggregate, #53" to be consistent with INDOT specifications.
 - b. Bituminous surface must be designated as "HMA Surface, Type A" to be consistent with INDOT specifications.
 - c. Bituminous base must be designated as "HMA Base, Type A" to be consistent with INDOT specifications.
 - d. The depth of the bituminous base shown for the car areas is too thin. Minimum lift thickness should be 2 times the maximum particle size in the mix, which for base is usually 1.5" making the minimum lift 3".
 - e. Staff has concerns about the adequacy of the asphalt section in the truck areas. For truck movement in these areas a stronger section should be considered.

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. The parcel acreage must be deeded off and the road plat recorded before an Improvement Location Permit/Building Permit will be issued.
3. A revised Site Plan showing the recalculated number of required parking spaces, bike parking and pedestrian walk must be submitted prior to pre-construction meeting.
4. 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.
5. The Hendricks County Planning and Building Department must be notified at least seventy-two (72) hours prior to any site improvements being installed.
6. 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.
7. 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.
8. No Improvement Location Permit/Building Permit shall be issued until any plat associated with Secondary Development Plan Review has been recorded.

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9. 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.

MEMORANDUM

TO: Hendricks County Area Plan Commission

FROM: Plan Commission Staff

DATE: July 7, 2009

RE: MODIFICATIONS TO DPR 419/09: PROJECT CENTERLINE

	Requirement	Request	Justification	Action Needed
Parking 7.2 (D)(1)	Parking lot two-way aisle width of 24'	Reduce width to 22'	Applicant has stated this is the standard they typically use, and narrower aisles would help achieve the points needed towards LEED Silver certification.	PC Modification to reduce aisle width
Landscaping 7.5 (F)(1)	Perimeter Landscaping for Parking Areas	Eliminate	The applicant is proposing significant landscaping elsewhere along the southern property line.	PC Modification to accept other screening
Landscaping Table 7.7	Type 3 Buffer yard Mounding	Mound only the western buffer yard	Applicant has stated this is not necessary as the existing topography restricts visibility along the northern property line.	PC Modification to only require mound for western buffer yard
Lighting 7.11 (E)	Parking lot light illumination and height	Classify certain lights as security	7.11 (Q) addresses Security Lighting as separate from parking area lighting where the standards are found.	Staff approved
Parking Layout 8.3 (E)	Maximum 50% of required parking in front yard	To exceed the percentage	Applicant has stated this area is appropriate for the majority of the parking due to lot constraints and the depth of the front yard created by the truck dock and detention.	PC Modification to exceed percentage
Offsets and Projections 8.3 (H)(2)	Two foot offset at least every 60'	Use color variation for warehouse, and allow one 75' expanse for office	Certain architectural standards would be difficult to meet with a building of this size. Except for the one expanse, all of the standards are met for the office.	PC Modification
Exterior Materials 8.3 (H)(4)	Façade materials and certain finishing standards	To utilize painted concrete panels	Certain architectural standards would be difficult to meet with a building of this size. Except for the one expanse, all of the standards are met for the office.	Planning Director may approve other products and finishes such as painted concrete
Roof Design 8.3 (H)(5)	Stepped parapet walls to be utilized	To utilize only on the office	Certain architectural standards would be difficult to meet with a building of this size. Except for the one expanse, all of the standards are met for the office.	PC Modification

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TZA 01/09: AMENDMENT TO THE HENDRICKS COUNTY ZONING ORDINANCE; by amending Chapter 4 Zoning Districts. Being amended are Sections 4.14(B) and (C) NB Zoning District, and 4.16(B) Highway Business District, and Table 4.3 Permitted Uses (Institutional Uses/Other) by deleting places of worship as a special exception in the NB zoning district and adding places of worship as a permitted use in the NB and HB zoning districts.

Mr. Reitz gave a presentation on the proposed zoning amendment to the Chapter 4 Zoning Districts. He stated that the amendment came about due to the Lighthouse Fellowship Church's purchase of the Masonic Hall in Coatesville to establish their church. He stated that the Planning & Building office notified them that the use of a church in the Neighborhood Zoning District was not a permitted use but a special exception. He stated in order for the church to establish there, they needed to obtain special exception approval from the Board of Zoning Appeals. He stated that a special exception was a use permitted in particular zoning districts but only after authorization by the Board of Zoning Appeals at a public hearing. He stated that the church had applied for the special exception and it had been heard two months ago. He stated that the Board of Zoning Appeals had denied that petition. He then stated that subsequently, the church had retained the American Center for Law and Justice on appeal of that decision and that organization had contacted the County Attorney, Greg Steuerwald. He explained the Center's position was that the denial of the special exception of that church activity was a violation of the Religious Land Use and Institutionalized Person's Act or the RLUIPA. He stated that their position came down to the fact that in the NB zoning district the County required a special exception approval for the church and at the same time, it had not required a special exception approval for similar uses such as meeting halls and lodges. He stated the position of the Center was that the County was discriminating against the church by adding to their burden of approval by requiring them to go through the special exception process. He stated that after discussion by the County Attorney and Board of Zoning Appeals, a decision was made that there was merit to the appeal by the American Center for Law and Justice and the Zoning Ordinance should be amended as a consequence. He stated that the proposed amendment reflected that change. He summarized by explaining the amendment would convert churches in the NB district from a special exception to a permitted use and in the HB district where lodges and meeting halls were allowed, churches would be allowed by right. He stated that in the GB district, churches were already permitted by right. He emphasized that we agreed there was merit to the proposal as far as the commercial districts but did not agree that it had any merit as far as special exceptions in residential districts for churches. He stated that in residential districts, a church was likely to be the most intense use in the neighborhood and as a consequence, there would be concerns about compatibility with the surroundings, which was the whole point of holding them to special exception standards in the first place. He stated they were not recommending any change in the zoning ordinance as far as converting churches from special exceptions to permitted uses in residential districts but only in the stated commercial districts.

Mr. Whicker commented it would be his understanding that churches would continue to be required to request special exceptions within residential neighborhoods and that was basically the same if not less than the strict requirements for businesses. He stated that businesses were not allowed in residential neighborhoods and churches would also not be allowed unless a special exception was granted.

Mr. Steuerwald stated that was correct and places of worship would be treated the same as businesses in residential districts with this change in the ordinance.

Mrs. Groves added that the Board of Zoning Appeals had given their consensus to this proposed zoning amendment and that there were extenuating circumstances that resulted in the vote to deny the Lighthouse Fellowship Church's previous petition. She stated that the Board of Zoning Appeals were in agreement with the proposed zoning amendment before the Commission.

Mr. Reitz then noted that there was a development plan requirement still in effect for the church.

After some further discussion, 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.

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Mrs. Groves then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners for **TZA 02/09** and adopt the positive Findings of Fact/Law.

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, July 21, 2009 at 9:30 a.m. or thereafter.

The positive Findings of Fact/Law were as follows:

Amendment of Chapter 4 Zoning Districts as follows:

Table 4.3 Institutional Uses/Other/places of worship:

Delete:

“S” in NB zoning district

Add:

“P” in NB zoning district.

“P” in HB zoning district.

4.14 Neighborhood Business

(B) Permitted Uses/Institutional

Add:

places of worship

(C) Special Exception/Institutional

Delete:

places of worship

4.16 Highway Business

(B) Permitted Uses/Institutional

Add:

places of worship

This ended the public hearing portion of the agenda.

Mr. Wathen commented on behalf of himself and the Board of County Commissioners that he wanted to thank the Planning Staff for their work in bringing Project Centerline before the Commission, which he felt would be a favorable economic project for Hendricks County.

Mr. Whicker called for any discussion items on the agenda to be heard as follows:

Mr. Reitz stated that there were four items up for discussion. He stated that the first item for discussion would be on the Wind Energy Facilities Model Ordinance. He gave a review of Regulatory Strategies for wind farms which included rezoning, special exception and overlay as well as the pluses and minuses for each strategy.

After discussion on the strategies, there was a consensus among the members on the overlay strategy. Mr. Reitz stated the staff would modify the model ordinance as an overlay to reflect the consensus and bring it back before the Commission at next month’s meeting.

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Mr. Whicker then asked what the purpose was for requiring liability insurance in the model ordinance.

Mr. Reitz stated that was something that seemed to appear in most model ordinances.

Mr. Whicker then stated that he had spoken to officials in Clinton County regarding the decommissioning clause being appropriate as to wind farms. Mr. Whicker stated that he was concerned with the general liability insurance policy clause for wind farms.

Mr. Reitz stated that in some counties liability insurance was also required for cell towers.

Mr. Steuerwald commented that the clause would not cause any harm and he was not sure why that clause was necessary.

Mr. Reitz suggested contacting the other counties and discussing why the liability insurance clause was part of their wind farm ordinances.

Dr. Hodgkin asked if the liability clause would spread into the decommissioning of a wind farm.

After some discussion, there was a consensus that the liability insurance clause would not be necessary or desirable since it was not required for other similar uses such as cell towers. Mr. Reitz would get back to the Commission with more information on that clause.

Mr. Reitz then moved forward with the Non-Commercial Wind Turbines portion of the model ordinance. He discussed how they might want to regulate commercial types of wind turbines. He discussed establishing the appropriate definitions, making them a special exception, and permitting for rooftop turbines by right.

Mr. Whicker asked if small wind turbine size was defined.

Mr. Whicker stated that there was a definition for a non-commercial unit.

Mr. Whicker suggested that a size limitation be added to the definition at 100 KW or less. He also stated that under the section on special exceptions, he did not necessarily agree with #10 regarding an inoperable wind energy conversion system and the length of time a system remained inoperable. He stated that due to the expense of the system, he did not feel it was fair to require an owner to dismantle said system for safety reasons.

There was a discussion among the members on the need for Clause #10 regarding an inoperable wind energy conversion system

Mr. Cain asked about Definition 1.b. as to a system being for onsite use and not for resale. He stated that he believed the ability for resale would be available.

Mr. Reitz stated that the wording "not for resale" could be deleted from the definition.

Mrs. Groves then asked about the decibel sound levels.

Mr. Reitz stated he believed it to be 75 DB at the property line.

Mrs. Groves asked if the 75 level would be too high.

Dr. Hodgkin stated that after visiting a wind farm site, he had determined that the noise became louder as the wind picked up and the blades turned faster. He stated that the noise was not constant but only when the wind was at its strongest.

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Mr. Wathen asked what the setbacks were from the property line.

Mr. Reitz stated the proposed setback was 1.1 times the height.

There was further discussion on the noise levels.

Mrs. Groves also discussed rooftop structures and restrictive covenants.

Mr. Reitz stated that the rooftop structures he was aware of were on commercial buildings and not on residential structures.

Mr. Whicker then stated that the ordinance indicated that wind energy conversion systems were exempt up to 120 feet in height.

Mr. Reitz then indicated the section on height exemptions may need to be revised. He stated that he believed the rooftop appurtenances could only be ten feet above the maximum height allowed in a zoning district.

Mr. Whicker then asked for more clarification on the height exemption clause.

Mr. Reitz stated that the rooftop units would be treated the same as elevator mechanicals on a rooftop and would be treated as rooftop appurtenances, which were allowed to exist ten feet above the maximum height of the structure.

Mr. Reitz stated that the changes discussed would be made and a new draft presented to the members at next month's meeting.

Mr. Reitz then asked to discuss the second part of the zoning ordinance changes initiated a couple of months previously. He stated they were minor housekeeping items regarding Chapter 7 and 8 for design and development standards. He explained what changes were made and asked for the members comments.

After some discussion, there was a consensus to go forward with the amendment.

Mr. Reitz then gave an update on the Floodplain Ordinance. He stated that Hendricks County was a participant in the National Flood Insurance Program. He stated that during certain disasters, residents of the county could obtain flood insurance when they could not otherwise. He stated that it was a good thing for the county but in order to participate, a floodplain ordinance was required. He stated that the ordinance had to be in a particular format and had to contain particular items and dates in it. He stated that there would be new flood maps on September 25th of 2009 which meant that a floodplain ordinance needed to be adopted with that date and some minor changes. He stated that the small towns needed to be a part of the flood insurance program. He stated the staff was attempting to locate records to verify that the towns were part of the program.

Mr. Whicker asked if the small towns had adopted a floodplain ordinance.

Mr. Reitz stated that it did not appear that they had. He stated it was his assumption that because they were under the Area Plan Commission, that they were. He stated, however, that paperwork could not be located and the DNR also did not have the paperwork.

He stated that he was presenting a draft amendment to the zoning ordinance on Chapter 10 Floodplain Management and Chapter 15 Definitions. He stated that it was very important that the changes were adopted and in a timely manner. He stated that the amendment would need to be heard by the Commission at next month's meeting.

Mr. Whicker asked for questions or comments.

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There being no questions or comments, Mr. Reitz stated that he would bring the item before the Commission for a vote at next month's meeting.

There being no further discussion, Mr. Whicker adjourned the meeting at 7:58 p.m.

Don F. Reitz, AICP, Secretary