

February 9, 2010

A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, February 9, 2010 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; Mr. Brad Whicker; Mr. Eric Wathen; and Dr. Russell Hodgkin. Members absent were: Mr. Jon Cain and Mrs. Sonnie Johnston. Staff members present were: Mr. Don F. Reitz, AICP, Secretary and Director of Planning; Mr. Greg Steuerwald, County Attorney; Mr. Brett Pickett, Deputy County Surveyor; Mrs. Cathy Grindstaff, Environmental Health Director; Mrs. Lesa Ternet, Planner; Mr. Eric Fazzini, Plan Technician; and Mrs. Joanne Garcia, Recording Secretary.

There was a quorum present with four (4) voting members. Mr. Eric Wathen had not yet arrived at the meeting. 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 January 12, 2010 meeting.

There being no corrections or additions, Mrs. Groves made a motion to grant approval for the January 12, 2010 minutes.

Mr. Brad Whicker seconded the motion.

FOR – 4 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Whicker stated that one public hearing matter on the agenda had been withdrawn, that being:

ZA 400/09: RICHARD L. & LISA A. NEIER

Mr. Whicker also stated that the item for discussion concerning a presentation by Mr. David Wright on Wind Farm Noise Standards would be continued for thirty (30) days to the March meeting.

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

ZA 401/10: MADISON SQUARE PARK, LLC; a zoning amendment change from AGR/Agriculture Residential District to LI/Light Industrial District, 2.372 acres, Middle Township, S35-T17N-R1W, located north of U.S. Highway 136 and west of County Road 150 East. (Kruse Consulting, Inc.)

Mr. Dale Kruse of Kruse Consulting, Inc. appeared on behalf of the applicant, Mr. Dan Keers. Mr. Kruse reviewed the location of the project and stated that it was an industrial office/warehouse rental space. He stated there were two buildings that were approximately 30,000 square feet each. He stated the project had been built around 2000/2001. He stated that in the eastern and northern sections of the parcel, there was an area of grass and behind the building a gravel parking area. He stated that when the project was originally approved, that parcel was not owned by Mr. Keers but by the adjoining property owner to the east. He stated that Mr. Keers was granted an easement to install the septic system and to install the parking area on the back portion of that parcel. He stated that the request was to rezone the property to LI/Light Industrial to bring it into compliance. He stated that Mr. Keers had committed to planting evergreen trees every thirteen feet along the southern boundary, the eastern boundary and just down the northern boundary. He discussed the gated dumpster enclosure for the building.

It was noted here that Mr. Eric Wathen arrived at the meeting.

Mr. Whicker called for questions or comments.

Mr. Wathen asked for clarification that the applicant was not planning on any construction but wanted to bring the property into zoning compliance.

Mr. Kruse stated that was correct.

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Dr. Hodgkin asked how much traffic was present on the gravel parking area at any one time.

Mr. Kruse replied fifteen to twenty pieces of equipment and semis. He stated that one of the tenants, Badger Equipment, had approximately four trucks parked.

Dr. Hodgkin asked if the vehicles parked long term or did they come and go throughout the day.

Mr. Kruse stated he believed they came and went throughout the day.

Mrs. Groves asked what constituted the outdoor storage other than the vehicles.

Mr. Kruse then explained what items were being stored outside by the tenants of the building.

Mrs. Groves then asked if that same area would continue to be used as outdoor storage.

Mr. Kruse stated that was correct. He added that on the eastern side, the gravel was abutting the property line. He stated they would remove fifteen feet of the gravel from the property line where trees would be planted. He stated that along the southern side, they would be removing approximately ten feet of the gravel where more trees would be planted.

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

Mr. Gerald Hardwick of 1436 East U.S. Highway 136 appeared. He stated his property abutted the gravel parking lot on Mr. Keers' property. He discussed the amount of trash that would blow onto his property from the applicant's property and he discussed the request he had made to Mr. Keers to install a fence to block the trash from going onto his property. He distributed some photos of the site, which were entered into the record as Respondent's Exhibit "1" in 17 parts.

Mrs. Groves asked when the pictures were taken.

Mr. Hardwick stated they were taken in November of 2009.

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

Mr. Kruse responded to the concerns of Mr. Hardwick. He stated that trees would be planted to discourage any driving of vehicles over the property lines. He stated that a trash dumpster would be enclosed on all sides and Mr. Keers would request his tenants to do a better job of enclosing the trash. He stated that the Environmental Protection Agency (EPA) has inspected the site as to the oil barrels being stored.

Dr. Hodgkin asked if the storage of the barrels would continue and what the barrels contained.

Mr. Kruse stated he believed the containers shown in the pictures contained used hydraulic oil and motor oil when the tenant's machinery was being serviced. He stated that those containers had since been removed due to the inspection by the EPA.

Dr. Hodgkin then asked if the barrels were removed, what type of disposal was being used for the oil from the serviced equipment.

Mr. Kruse stated the storage in the containers of oil would continue but those containers would also be removed rather than stored on the site.

Dr. Hodgkin asked if there was any indoor area where the machines could be serviced.

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Mr. Kruse stated that the machines were very large and were parked on the gravel so that they would not damage the asphalt parking area and they were serviced on the gravel area.

Dr. Hodgkin asked if there were any provisions for containment of spills.

Mr. Dan Keers then appeared and explained that the gravel area was not routinely used for servicing the machines and that it was used for storage and unloading.

Mrs. Groves asked about the piping and hoses shown in the pictures.

Mr. Keers stated that the barrels were removed but the piping was stored outside since there was not enough room to store concrete or plastic piping indoors. He stated those items would come and go regularly. He also stated that the old tires shown in the pictures would also be removed immediately.

Mr. Whicker asked Mr. Reitz if outdoor storage was allowed in the LI/Light Industrial District.

Mr. Reitz stated yes it was allowed but only for business materials, not junk, debris or waste materials.

Mr. Whicker asked Mrs. Grindstaff if she had a concern with the draining and storage of oil.

Mrs. Grindstaff stated that it did not sound like the kind of activity that would normally be done on a gravel surface if it was routine maintenance of equipment.

Mr. Keers stated that it was not routinely used for servicing the machines. He stated because each machine held about 25 to 30 gallons of oil, it was not practical to drain on the gravel area. He stated the area was used more as a staging area.

Mrs. Grindstaff asked about the inspection by the EPA and why they had inspected the site.

Mr. Keers stated that the EPA had been called out by someone who had assumed they were in violation. He stated that at the time of the inspection, there were some barrels and buckets on site with oil. He stated the inspector had taken some samples and concluded there was no violation and asked that the containers be removed from the site.

Mr. Keers stated he had complied.

Mrs. Grindstaff stated they would want to make sure they stayed under the amount that was allowed on the site as to hazardous waste.

Dr. Hodgkin stated the pictures indicated to him that the property had not been particularly well maintained. He asked if by changing the zoning, the situation would become worse as to storage on the site.

Mr. Reitz stated that the application was on the agenda as a result of a zoning complaint. He stated the planning department was interested in making sure the property owner was in compliance with the zoning standards and that enforcement of those standards be monitored by the department.

Dr. Hodgkin asked what assurances there were that the site would be better maintained if a favorable recommendation was granted to the applicant.

Mr. Reitz stated that the underlying zoning had nothing to do with enforcement of the zoning standards. He stated the property owner was either in compliance or he was not, independent of the zoning. He stated that weeds were not under the department's control but might come under the jurisdiction of the township trustee. He stated that open storage of junk and debris would be under the planning department's authority to order removal.

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Mr. Wathen asked what happened if the rezoning was not granted.

Mr. Reitz stated then the property owner could not use the property for the use currently in operation. Mr. Reitz stated the equipment would be required to be removed and the property used for the zoning currently in place.

Dr. Hodgkin asked if the staff believed the property owner would comply with the items discussed at this hearing.

Mr. Reitz stated that it was the department's philosophy to bring properties into compliance and not punish property owners. He stated it was a function of the zoning ordinance to bring Mr. Keers into compliance. He stated the application was one step toward compliance and if there were violations, Mr. Keers was still subject to enforcement.

Mr. Wathen stated he believed the trees would help with screening and containment once they had grown up. He stated he felt it was best to bring the property owner into compliance.

Mr. Brad Whicker stated he was in agreement with Mr. Wathen and he asked Mr. Keers to be a better neighbor in the future.

Mrs. Groves stated that all of the outside storage would be moved back onto the gravel area from the grassy areas, which would be planted with trees and maintained in a better fashion and that Mr. Keers should treat the gravel area for weeds. She asked if she was correct in assuming those facts.

Mr. Keers stated yes.

Dr. Hodgkin stated to Mr. Keers that the improvements would not only benefit the adjoining neighbors but also the tenants who leased from Mr. Keers.

Mr. Keers stated he agreed with Dr. Hodgkin's comments.

Mr. Whicker then asked for a recommendation from the members.

Mrs. Groves made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners and adopt the positive Findings of Fact/Law subject to the following:

1. Commitments made by the petitioner at this meeting; and
2. Commitments made in the positive Findings of Facts as follows;
 - a. Installation of 4 foot Norway spruces every 13 feet around the perimeter of the parking lot, except along a portion of the northern boundary to be completed by June 1, 2010; and
 - b. Outdoor storage may only occur at a maximum of 5% of the parcel area, or approximately 5,230 square feet.

Mr. Brad Whicker seconded the motion.

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

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, February 23, 2010 at 9:30 a.m. or thereafter.

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

Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 401/10: Madison Square Park, 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 AGR/Agriculture Residential 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 not substantially comply with the recommendations of the Hendricks County Comprehensive Plan. However, the proposal is consistent with the historical pattern of light industrial land uses. The neighborhood is characterized by a heavy concentration of industrial land uses including the steel mill and will likely continue to occur in the area.

(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 use of a parking lot is less intense and supplementary to the industrial use of the industrial park.

(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 under consideration is near U.S. 136 and this type of industrial development has occurred and will likely continue to occur in the future as there is a great deal of industrial zoning.

(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 industrial park use immediately west. Moreover, screening the site as a consequence of this rezoning may have a conservative influence on property values immediately surrounding the site.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth. The surrounding area is zoned for industrial land uses. Commercial and industrial activity, particularly along U.S. 136, can be expected to increase in the area because of the existing industrial zoning.

Also subject to the following:

1. Installation of 4 foot Norway spruces every 13 feet around the perimeter of the parking lot, except along a portion the northern boundary to be completed by June 1, 2010.
2. Outdoor storage may only occur on at a maximum of 5% of the parcel area, or approximately 5,230 square feet.

ZA 402/10: CHRISTOPHER R. WELLS; a zoning amendment change from LI/Light Industrial District to GB/General Business District, 1.64 acres, Washington Township, S20-T15N-R2E, located on the south side of County Road 251 South, east of County Road 1050 East and southeast of the intersection of U.S. Highway 40 and County Road 1050 East. (Christopher R. Wells)

Mr. Christopher Wells, owner of Midwest Wrecker Repair, appeared. He stated the application requested a rezoning of the property on which the business, Jimmy's Motor Block, was occupied. He stated that when he located to the property in 2006, he had contacted the Planning & Building Department to check on the zoning of the property. He stated that his property and the Jimmy's Motor Block property needed to be brought into compliance by rezoning in a district that allowed vehicle repair, that being the GB/General Business District. He explained how they would comply with the staff recommendations to improve the curb appeal of the property by planting bushes and shrubs. He stated he had improved the property by cleaning it up and he explained what improvements he had completed.

Mr. Whicker asked Mr. Reitz if the Jimmy's Motor Block property was part of the petition.

Mr. Reitz stated yes.

Mrs. Groves asked what businesses were operating on the surrounding properties.

Mr. Wathen asked why the two properties to the east of the petitioner's property were considered grandfathered in as to zoning.

Mr. Fazzini explained the situation with those properties

There was a discussion on the zoning classifications for the surrounding properties.

Mr. Whicker asked for further questions from the members or staff.

Mrs. Grindstaff asked about the sewage disposal at the site and whether either of the parcels was on the Plainfield Sewer system.

Mr. Wells stated that they were not but that the sewer was in excess of 300 feet away.

Mrs. Grindstaff asked if they were then planning on an onsite commercial wastewater system.

Mr. Wells stated that he had planned for that and was determining the cost.

Mrs. Grindstaff stated that her concern was because of the gravel present and that a commercial septic system might not be viable. She asked if Mr. Wells would then consult with Plainfield on connecting to their system.

Mr. Wells stated he was determining how to prepare for either solution.

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

Mrs. Groves commented that she wanted to make sure Mr. Wells understood the rules regarding filing for a development plan review when certain changes were made.

Mr. Wells stated he understood.

Mr. Whicker then called for a motion.

Mr. Wathen made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners and adoption of the favorable Findings of Fact/Law for **ZA 402/10: Christopher Wells** and subject to the following:

1. Installation of landscaping and restriction of use for the Midwest Wrecker property per the Development Commitment Recording Form received February 4, 2010. Such for to be recorded thirty days from the approval by the Hendricks County Board of Commissioners. Installation of landscaping shall be completed by June 1, 2010.
2. Development plan review by the Plan Commission and compliance with the Ronald Reagan Corridor Overlay District standards for the Midwest Wrecker property at the time required per HCZO 12.3 (B) (1) (a) and/or (c).
3. Special Exception approval from the Board of Zoning Appeals for "motor vehicle repair and service, major" for both parcels.

Dr. Hodgkin seconded the motion.

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

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, February 23, 2010 at 9:30 a.m. or thereafter.

The Findings of Fact/Law were as follows:

Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 402/10: Christopher R. Wells

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 LI/Light Industrial 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:

(4) 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 industrial land uses. The proposed zoning designation permits lower intensity commercial land uses.

(5) 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. There are no significant physical changes to the exterior of the structure that would alter the appearance of its current state.

(6) 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 under consideration is along C.R. 251 South where this type of use has historically occurred. Further, vehicle repair is a more desirable use than the adjacent auction and salvage yards.

(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 does not require significant alterations to the property and is consistent with the established land use pattern along C.R. 251 South. Moreover, screening the site as a consequence of this rezoning may have a conservative influence on property values immediately surrounding the site.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth. The area has historically been used for commercial and industrial uses. Commercial activity, particularly along C.R. 251 South, has been established, and further, commercial land uses in the area would be more desirable than industrial.

Also subject to the following:

1. Installation of landscaping and restriction of use for the Midwest Wrecker property per the Development Commitment Recording Form received February 4, 2010. Such form to be recorded 30 days of approval by the Hendricks County Board of Commissioners. Installation of landscaping shall be completed by June 1, 2010.
2. Development Plan Review by the Plan Commission and compliance with the Ronald Reagan Corridor Overlay District standards for the Midwest Wrecker property at the time required per HCZO 12.3 (B)(1)(a) and/or (c).
3. Special Exception approval from the Board of Zoning Appeals for "motor vehicle repair and service, major" for both parcels.

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There being no further discussion, Mr. Whicker adjourned the meeting at 7:15 p.m.

Don F. Reitz, AICP, Secretary