

February 13, 2018

A meeting of the Hendricks County Area Plan Commission was held on Tuesday, February 13, 2018 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. Brad Whicker, President; Mrs. Sonnie Johnston; Mr. Tim Whicker; Mr. Eric Wornhoff; Mr. Damon Palmer; Mr. Walt O'Riley; and Mr. Bob Gentry. Staff members present were: Mr. Tim Dombrosky, Secretary and Director of Planning; Mr. Greg Steuerwald, County Attorney; Mr. David Gaston, County Surveyor; Mr. Cory Gehring, Chief Deputy Surveyor; Mr. John Ayers, County Engineer; Mrs. Suzanne Baker, Senior Planner; Mr. Nick Hufford, Planner; and Mrs. Joanne Garcia, Recording Secretary.

The meeting was opened with the Pledge of Allegiance. There were seven (7) members present.

Mr. Whicker called for separate motions to approve the past meeting minutes of October 10, 2017, December 12, 2017 and January 9, 2018.

Mrs. Johnston made a motion to approve the October 10, 2017 minutes with Mr. Gentry seconding the motion and with three abstentions, those being Mr. Wornhoff, Mr. Tim Whicker and Mr. Damon Palmer.

The motion passed with 4 in favor and 3 abstaining.

FOR – 4 – AGAINST – 0 – ABSTAINING – 3 –

Mrs. Johnston then made a motion to grant approval for the December 12, 2017 minutes with Mr. Gentry seconding the motion and with two abstentions, those being Mr. Wornhoff and Mr. Palmer.

The motion passed with 5 in favor and 2 abstaining.

FOR – 5 – AGAINST – 0 – ABSTAINING – 2 –

Mrs. Johnston made a motion to grant approval for the January 9, 2018 minutes with Mr. Gentry seconding the motion and with one abstention, that being Mr. O'Riley.

The motion passed with 6 in favor and 1 abstaining.

FOR – 6 – AGAINST – 0 – ABSTAINING – 1 –

Mr. Whicker then called for the first item on the public hearing portion of the agenda as follows:

ZA 454/18: HENDRICKS COUNTY HUMANE SOCIETY ARK, INC.; an amendment to remove zoning commitments in the GB/General Business District, 1.73 acres, Center Township, S07-T15N-R1E, located on the southeast side of the intersection of East Main Street and South County Road 300 East and more commonly known as 3033 East Main Street. (Charles E. Hostetter/Hostetter & Associates)

Mr. Charles (Gene) Hostetter of Hostetter & Associates appeared on behalf of the applicant. He stated that also with him was Carol Battistini, President of the Board for the Humane Society. He stated that they were asking for removal of some restrictions placed on the property in the GB/General Business zoning classification. He stated that the property had been rezoned several years ago and was limited to a car dealership and office uses. He stated they were asking for those restrictions on the uses to be lifted to allow them to place a portable looking dog kennel on the property. He stated they would not be boarding dogs on a regular basis and the kennel was basically just for adoption events that were held on weekends and it was also to be used for emergencies. He stated that the kennel was a permitted use in the GB district. He asked for questions from the members.

February 13, 2018

Mr. Brad Whicker 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 and called for a motion.

Mrs. Johnston then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners for removal of the zoning commitments previously placed on this property.

Mr. Tim Whicker seconded that motion. The motion passed unanimously.

FOR – 7 – AGAINST – 0 – ABSTAINED – 0 –

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, February 27, 2018 at 9:00 a.m. or thereafter.

The positive Findings of Fact/Law were as follows:

Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 454/17: Hendricks County Humane Society Ark, 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 GB with conditions to GB. 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 does not annotate this area. The intent was for the property to be annexed by the Town of Danville. However, this property is surrounded by similar uses and zones.

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

The Commission finds that the proposed use will not negatively impact the district by providing quality kennel and nonprofit entities for the County.

(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, as identified in the Comprehensive Plan and by market conditions.

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

The Commission finds that the proposal does conserve property values in the jurisdiction by meeting demand for a piece of property that has few alternatives.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth by encouraging commercial uses.

For all the foregoing reasons, the Commission recommends approval of this request for a zoning map amendment on the 13th day of February 2018.

DPR 463/18 (PRIMARY): HAWKEYE STORAGE; a development plan review to establish a storage unit facility; 7.58 acres, Marion Township, S05-T15N-R2W, located on the north side of U.S. Highway 36, approximately 0.4 mile west of State Road 75, more commonly known as 7410 West U.S. Highway 36. (Kruse Consulting, Inc.)

Mr. Whicker stated that this applicant had requested a thirty (30) day continuance to the March meeting.

Mr. Wornhoff then made a motion to approve a continuance of (30) days to the March 13, 2018 meeting.

Mr. O'Riley seconded the motion. The motion was unanimously approved.

FOR – 7 –

AGAINST – 0 –

ABSTAINED – 0 –

Mr. Whicker then stated that Tim Dombrosky, the Planning Director, wished to give a brief overview of the PUD/Planned Unit Development Zoning District.

Mr. Dombrosky then gave a brief presentation and explanation on a PUD rezoning. He explained that the process was described in the IC Code in the 1500 Series and described in our Zoning Ordinance in more detail. He stated that a PUD Amendment was a zoning map change or the same as you would do any other zoning map change with a recommendation to the County Commissioners who would make the final determination. He stated that it was a custom zoning district in that the applicant wrote the district ordinance and presented it to the Plan Commission for consideration. He stated if it was adopted, it would be the guiding ordinance for that parcel of land and if it was not in the ordinance, it could not be done and if it was in the ordinance, it would have to be done that way. He stated that it was the first step in a multi-step process for a PUD and the ordinance was specifically written for a single development, it guided that development and could only be used essentially for that development. He clarified not necessarily for that developer but just for that development being proposed. He stated in that way it was more restrictive than normal rezoning which opened up the door to a lot of different uses, whereas a PUD allowed only a specific development. He explained that the approval process for a PUD was heard by the Plan Commission and then passed on to the Board of County Commissioners and would be heard in two weeks by the Commissioners to be made final. He stated that after that, the development would be submitted and heard by the Plan Commission as a primary development plan. He stated if that DPR was

approved by the Commission and the Drainage Board, there would be a secondary DPR hearing before the Plan Commission Administrative & Plat Committee for the final technical details of the development. He added that the Plan Commission could request that the secondary be heard by the full body if they wished to do that and that the secondary hearing was typically not a public hearing item. He stated that there were essentially four steps to this process. He stated then, in summary, that what was being heard at this meeting would be the final form and the developer would not be allowed to do anything outside of what was shown.

Mr. Greg Steuerwald, County Attorney, then disclosed for transparency that his son worked for the applicant's representative law firm, Barnes & Thornburg, and that he had not been aware that this law firm was the representative for the applicant until this meeting. He added that even though his son worked at that law firm, he had nothing to do with this application and that he worked in the municipal bond department.

Mr. Whicker then called for the hearing on the next matter as follows:

ZA 453/17: MI HOMES OF INDIANA, L.P. (SONORA); a zoning amendment change from RA/Single Family Residential District and AGR/Agriculture Residential District to PUD/Planned Unit Development District; 128 acres, Brown Township, S05-T16N-R2E, located on the west Side of Raceway Road between East County Road 700 North and East County Road 650 North. (Barnes & Thornburg/Banning Engineering, P.C.)

Mr. Joseph Calderon of Barnes & Thornburg Law Firm appeared to represent the applicant, MI Homes of Indiana, L.P. Mr. Jonathan Isaacs, Land Development Manager for MI Homes of Indiana and Mr. Jeff Banning of Banning Engineering P.C. were also present. He stated that MI Homes had been looking for sites in and around the Indianapolis area to meet the greater demand for products sold by this company. He stated that what was being presented had been well vetted by several county agencies. He stated the plan was still conceptual and would come back for more detailed plan approval as the process progressed. He stated that they felt they had a concept and plan that would merit a favorable recommendation to the County Board of Commissioners. He then displayed the site plan that had been presented at last fall's meeting and he reviewed its location and that it had comprised approximately 62 acres. He stated that the plan had been passed on to the County Commissioners with a favorable recommendation from the Plan Commission. He stated, however, that the plan had not received approval from the County Commissioners. He stated that since he had not been involved in that plan, he wanted the Commission to understand that what was being presented at this meeting had an increase in acreage to 128 acres and now connected to the Branches development to the west. He then presented a list of the different existing surrounding developments and metes and bounds lots. He stated in summary that they had now gained control of an additional 66 acres known as the Starkey Farm and this acreage had been incorporated into the proposal. He stated that the Hendricks County Comprehensive Plan called for the land to be developed as Suburban Residential and that they felt this was more in line with the pattern of development there. He stated that a lot of the existing residential homesites were developed with septic systems and larger lots. He explained how they felt their proposed development would fit in with the surrounding properties from a density and price point standpoint. He explained that as the chart indicated the older properties with larger lots that were developed with septic systems would not be able to be developed in the same way by today's standards. He added that the good news was that they proposed to bring sewer to the site and the proposed development was in an area where that could be done. Mr. Calderon then discussed the original plan that had been brought before the Commission with 123 lots with 11,000 square foot lot size on average with approximately 21 percent common area and a density of 1.98 units per acre and located on the eastern portion of the southern property. He then went on to explain how the plan had changed after they had acquired the Starkey Farms property. He explained how the densities on the new property would match up with the Branches development. He stated that they then had worked with Banning Engineering to determine how this property should more suitably be developed and being more cognizant of their neighbors to the south, they had decided to go into a south/north plan where they would have more lots on the northern end versus the southern end. He stated that the thinking was to provide more space and buffering areas along the south end and

recognizing that there were some older lots located to the south of their project and more particularly the ones that adjoined them on the north side of County Road 650 North. He stated that the plan presented yielded 286 lots and an overall density of 2.23 units with 98 of the lots to be offered their Prestige product on the southern end and the Smart series of 188 lots on the north end. He also pointed out the access points to the development. He stated that the displayed plan was the newest layout from February 13, 2018 with some changes to the street layout and road access as requested by the County Engineer to avoid as many long cul-de-sacs and other things of that nature. He pointed out that there would still be the same Areas A & B with a little bit different connectivity pattern with a slightly different unit count. He then went on to explain that their Prestige series would meet and exceed the point system for architectural requirements and their Smart series which would also exceed from an architectural standpoint. He stated that although the Smart series would be smaller they had built into it that they would build more quality and larger than their minimum sizes. He stated that the Smart series ranch plans would be 1,400 to 2,000 square feet plus bonus room options and two-story plans of 1,800 to 2,225 square feet. He stated that the Prestige series ranch plans would be 1,800 to 2,400 square feet and 2,800 to 3,200 square feet for two story plans. He stated that they had spent a lot of time working with the planning staff and felt that their resulting staff letter was very thorough. He added that one of the key support reasons for their designs was that people did not necessarily want larger lot sizes and that resulted in designing larger open spaces in a development. He stated that they had an example for comparison of what a generic RA development might yield with the ordinance required open space and a total of 272 lots. He stated that they were proposing at a maximum of 286 lots, with 40 acres or at least thirty (30) percent open space. He stated that fifteen (15) percent of that would be open active space. He stated that the differential was significant between the required open space under RA and what they were providing under their PUD, was much less of a differential in terms of lot counts. He stated they felt that by providing those additional amenities would not only help them sell their homes but also be a shining example for what a PUD could be in Hendricks County. He stated that in the staff's report, it was noted that the Fiscal Study was formulaic and assumed certain assessed valuations and how much it would generate under the tax caps. He stated they understood that there were challenges to justifying how single-family home development paid for itself. He stated those fiscal studies did not necessarily consider fees that the county received for building permits and future zoning approvals, income sales tax, incidental support for commercial development, etc. He stated that the Comprehensive Plan was like a guide book which the staff had looked at. He stated they noted that every criterion other than two, they had either met or somewhat met. He stated that there were two criteria which staff said they had not met and that was protecting historically significant neighborhoods and mixed-use neighborhoods. He stated they did not think those were even applicable and that they should not be graded on them. He stated that when the Comprehensive Plan indicated that the area should be Suburban Residential, they felt they completely fit the bill with their proposed development. He then reviewed the staff's conclusion that they wanted them to present to the Plan Commission something that exceeded the architectural standards and the landscaping standards. He stated that they had amended their PUD Ordinance to reflect a 7-point standard for the front facades for both sections. He stated that they had also prepared a new landscaping plan with Type A & Type B bufferyards on every perimeter. He went on to explain the new landscaping standard changes in detail. He concluded his remarks by introducing Mr. Jeff Banning.

Mr. Jeff Banning of Banning Engineering P.C. appeared to discuss the infrastructure plans. He stated that at the last presentation, there had been a lot of discussion on drainage. He stated they had presented to the Drainage Board as a wishes to be heard item to explain that they had looked at the Drainage Ordinance to deal with their specific location. He stated that they had provided for a lot of lake area as part of their common space. He then pointed out another area in the corner of the property where they were proposing a lift station and force main to head south along Raceway Road that would tie into an existing sewer system down toward 56th Street area. He stated that one of the items they had talked about with the staff was that by bringing sewer to the area, there was the potential of extending the sanitary sewer along County Road 650 North which would make sewer available to all the existing neighborhoods that were currently on septic systems. He stated they were committed to extending the sewer provided they could work with the property owners to acquire easements. He stated bringing sewer to the area would be a huge benefit as the area was the worst part of the county when it came to soils.

Mr. Calderon then asked Mr. Jonathan Isaacs to speak on the business model for the proposed project.

Mr. Jonathan Isaacs of MI Homes of Indiana appeared and stated when the previous petition had been denied by the County Commissioners, it had come down to the lot count and the fiscal ability to bring sewer to the area to make the project feasible. He stated that they had reached out and had discussions with Mike Starkey but felt it had not been the time to talk about adding more property to the project. He stated after the denial, they had begun looking at Mr. Starkey's property and came to the realization that the Starkey Farm ultimately was not sewerable through the Branches Subdivision. He stated that the entire project would need a lift station and to provide sewer in the north for future growth contemplated by the County. He stated that it began to make sense from an economic standpoint to begin looking at the project for the 128 acres. He stated they began laying out options for this larger project with multiple products which was more appropriate. He discussed how they reached their decisions on the north/south layout for the project. He then discussed the items they considered as to their Prestige and Smart series models and the price points for the homes with higher architectural standards to be offered on the front facades. He stated they had expanded their list and were offering 7 points instead of 4. He stated they estimated the Prestige series would have an average price point of \$300,000-315,000 and the Smart series models would average in the mid-\$250,000. He displayed examples of those series of homes.

Mr. Wornhoff then asked Mr. Isaacs what his best guest would be as to the percentage of ranch styles offered in each section versus the traditional styles.

Mr. Isaacs responded that in the Prestige series, there would be 4 ranch styles offered and in the Smart series there would be 2.

Mr. Tim Whicker asked a question about the landscaping plan and the amenity area.

Mr. Isaacs discussed the rendering of the amenity area in the middle of the project with a pool and bathhouse. He stated there had not been enough time to incorporate this rendering into the plans. He stated it would not be a year-round facility. He also pointed out the location of a park and stated in the modification that had been made to redesign the intersections in the project to meet the ordinance requirements, they had added common areas. He discussed the design changes in detail to create quality useful open space.

Mr. Palmer asked what percentage of the open space was in retention pond.

Mr. Isaacs responded that there was about 14 percent in retention ponds of the 30 percent open space shown on the plan. Mr. Isaacs clarified that was 14 percent of the gross open space. He explained that the pond sizes were larger than needed to have room to reduce their sizes as the plan was modified to meet drainage requirements.

Mr. O'Riley asked what the price range was for the smaller ranch homes in the northern portion of the project.

Mr. Isaacs replied that he did not have those numbers but estimated about \$200,000. He stated any advertising signage would probably indicate in the high \$190,000's for a starter price with options added in from there. He stated it would probably be an average price of \$220,000 to \$215,000 for the smaller 1,400 square foot ranch plan with options.

Mr. Palmer stated he wanted to go back to the slide that showed the average prices for neighboring developments. He asked if the average price across the proposed subdivision would be \$280,000.

February 13, 2018

Mr. Isaacs stated that would be a fair statement and probably a little higher between the two sections.

Mr. Brad Whicker asked for further questions or comments. There being none, Mr. Whicker asked for a presentation on the Fiscal Study done on the development. He also asked Mr. Dombrosky to give a brief explanation of why Fiscal Studies were required.

Mr. Dombrosky stated that a Fiscal Study was required for any major subdivision. He added that 140 units was the breakpoint for studies to be required. He stated he believed that was also the number for a Traffic Study to be required. He stated that this developer had not presented those studies at the last presentation because at that time the unit count was under that amount. He stated that the Fiscal Studies had been done for many years by Financial Solutions Group, the County's fiscal consultant as an unbiased third party and paid for by the developer to provide us that baseline information about the fiscal impact of the proposed development. He stated when it started, they primarily looked at the impact to the school districts and that they had expanded that a little with many different factors.

Charlie Joyce of Financial Solutions Group (FSG) appeared to give a review of the Fiscal Study conducted for the Sonora proposed project. He displayed slides showing the financial impact projected for the community.

Mr. Whicker thanked Mr. Joyce and called for questions or comments.

Mr. Palmer asked what was the selling price used in the model.

Mr. Joyce replied that they had used for the Smart series an average of \$250,000 and for the Prestige series an average of \$325,000.

Mr. Palmer asked based on prior experiences in simulations, how dependent was the outcome from the alpha model.

Mr. Joyce replied that it was very dependent and there would be significant differences if that were to change. He added that they had roughly 90 of the Prestige Series at higher value and if the mix changed, that would also impact their analysis.

Mr. Palmer asked where Mr. Joyce had gotten that number.

Mr. Joyce responded that they had looked at some other similar subdivisions of the type being proposed and what their assessed values were and what the selling prices had been.

Mr. Palmer stated that the impact fees mentioned were for discussion and not included in the model.

Mr. Joyce replied that was correct.

Mr. Whicker asked for further questions. There being none, Mr. Whicker called for the public portion of the meeting and set out the rules for speaking and what was appropriate to discuss on this request for rezoning. He reminded the audience that the Plan Commission would be voting on whether to send a favorable, unfavorable or no recommendation to the Board of County Commissioners.

Mr. Steuerwald called the first person signed up to speak.

Mr. Paul Miner, 113 Shockley Street, Lizton, appeared. He stated that he had been on the steering committee for the Comprehensive Plan and he believed this project did meet the recommendations of the plan and did meet the open space requirements. He commented that as far as the proposed ponds, he hoped they would not be manicured as that would attract unwanted geese. He

also stated that he hoped there would be external as well as internal connectivity within the development to link the neighborhoods and ultimately to the B & O Trail which also extended to Raceway Road.

Mr. Steuerwald called on Mr. Brian Proctor next.

Mr. Proctor of 6357 Lakeland Boulevard appeared and stated he would ask that Mr. Shawn Nash speak before him.

Mr. Shawn Nash of 10869 East County Road 650 North, appeared and stated that he was the Treasurer for the Lakeland Manor Homeowner's Association representing Golfview Estates, Lakeland Manor and Norman Estates and that he had also been working with The Links and Eagle Creek Estates. He asked that in that capacity he hoped he would be allowed extra time to speak.

Mr. Whicker stated he would keep that in mind and grant him some extra time.

Mr. Nash then began by stating that he and the neighbors had not been able to see the revised plan presented at this meeting. He stated his comments would be based on the filed plan on record. He added that based on what he had seen so far, it would not change his comments and that he believed the open space had been somewhat reduced. He stated that the density looked the same and the number of homes looked the same.

Mr. Whicker replied that revised plan was not what the Plan Commission was approving at this meeting.

Mr. Nash then reviewed what had been discussed between them and MI Homes and they had concluded that the new plan was worse than the previous one. He stated there were 286 lots compared to the 123 in the old plan. He stated that the new project had 65% of the lots or 185 that were the size of RD or less with 54 lots smaller than the 7,500-minimum square footage in an RD district going all the way down to 7,150 square feet. He added that the Northern section of the current plan proposed 188 lots representing 66% of the total lots of the entire project and 80% of those lots would fit into the RD district or lower. He stated the project was being presented with 65% of its lot sizes or 185 lots at RD or lower compared to only 25% or 31 lots at RD for the previous plan. He stated that would be 120 additional lots at RD or lower which would be the size of the entire previous project that was denied by the Commissioners. He stated that these would be primarily starter homes versus the types of homes that were in the existing community. He stated that the massive increase in these smaller homes and lots did not fit in with the current neighborhood which were long established existing RA neighborhoods. He then discussed the 7.5-foot sideyard setback between homes in the northern portion which was a fire safety issue. He discussed the issues caused by a downturn in the housing market. He stated they felt the project as proposed would be disastrous for the area. He stated they felt the developer should commit to the price points from the previous plan. He also discussed other changes in the quality of the homes planned for the development and discussed the value of existing homes in the area. He talked about there being no guarantees that the homes being presented would be constructed in the development. He discussed the lot widths in the Branches subdivision bordering the proposed development which were wider than the lots proposed to abut them and how much larger the homes being built in the Branches were compared to the proposed development. He added that they believed the starting prices quoted by the developer were trying to fool them into thinking the Smart Series homes would not bring down our custom home values if developed near us. He stated that they believed the prices did not add up and were erroneously inflated in the fiscal study. He also discussed that the actual percentage of open space and water did not match up with what was required for open space. He stated he had spoken with the Brownsburg School District and that the project would equate to about one half of an elementary school. He stated in summary that even though the PUD fell short of even an RD District in many of its attributes, it most closely resembled an RD district and that the intent of an RD district was "development on smaller lots that are permitted in the other residential districts and the pattern of development that may occur in the town centers, where a compact urban farm with smaller setbacks and alley access to rear yards and rear loading garages." He stated this area was clearly not a town center and was not adapted to this use.

and did not fit in with our rural residential setting. He concluded with requesting that the Plan Commission vote unfavorably to the proposed rezoning.

Mr. Brian Proctor, 6357 Lakeland Manor, appeared and discussed Manor Lake and the effects of the proposed development on the lake. He stated that it was a private lake and that the residents in the subdivision had riparian rights on the lake. He stated he had researched state codes on water rights. He discussed other issues with the lake and any interference with the natural flow of the water to the lake. He stated he felt this should be studied as well as flooding and drought effects.

Mr. Steve Jones, Brownsburg Fire Marshal, appeared and discussed fire safety in the proposed development. He discussed what an appropriate distance between homes would be. He added that a 7.5-foot sideyard setback and fifteen feet apart would be subject to spreading fire to a neighboring home without the fire department's intervention. He discussed the amount of average fire runs a day and he recommended a 10-foot sideyard setback to give fire departments the response time necessary to prevent the spreading of a fire to another structure.

Mr. Randy Rease, 10978 East County Road 700 North, appeared and discussed the different class of homes that existed in comparison to the proposed project. He stated that he had the same concerns as he had during the previous application and that MI Homes could not give a good definition of the price of their proposed homes.

Mr. Steuerwald reminded everyone present that all the remonstrance letters received were made a part of the permanent record.

Mr. Mike Starkey, 9225 East County Road 700 North, appeared and discussed past offers made for his property and he stated he was favorable to this developer and liked the integrity and type of homes and blamed himself for the density. He stated that there would not be hardly any nitrate or phosphorus coming from his land because of his farming practices. He stated however that there was contamination coming from all the septic systems and that the developer's offer to bring sewer to the area was a plus.

Mrs. Carrie Smith, 7072 Fox Hollow Lane, appeared and stated that the area was unique and would be ruined by a dense development. She discussed the traffic problems in the area that would be worsened with a large development. She stated she did not feel the proposal fit with the feel of the area.

There being no one else signed up to be heard, Mr. Whicker closed the public hearing and called on Mr. Calderon for his responses.

Mr. Calderon stated that they felt they were bringing a special neighborhood to the area. He stated that the remonstrators speaking lived on lots that were larger due to their being on septic systems. He stated that with sewers, lots could be smaller and there was no comparison between the two. He stated that a lot had been said about home prices and square footages and this had also been debated at their neighborhood meetings. He stated they had indicated that their model minimums on the north side were 2,000 and 2,600 on the south side and that they were not trying to force down the sizing. He stated that theoretically the sizes could be smaller if there were buyers requesting 1,400 square foot homes. He stated that they were willing to exceed the ordinance minimums and more importantly the benefit of a PUD was more open space traded for smaller lots. He compared what they could do with an RA zoning district versus the proposed PUD. He stated that the 30 percent open space requirement was a minimum and they had exceeded that with over 33 percent. He stated that with respect to sideyard setbacks, they met the RD standards and if the fire marshall said that was a safety concern, then he was basically saying that the county ordinance was unsafe for several residential districts. He then went on to say that the numbers provided to the Financial Solutions Group were suggestions but that they also looked at sale prices and assessed values and they were not trying to pull the wool over anybody's eyes. He stated things should not be assumed without the facts. He stated that the facts were what the professional planning staff said in making their recommendations and what the applicant put before the members in its presentation. He stated they felt that they met all the criteria required to be considered. He stated it was

a legislative process and it was not a legal standard and should be looked at in support of the Comprehensive Plan and your community. He stated he felt they did meet the Comprehensive Plan that called for suburban development and that they were compatible to many subdivisions that had been developed. He stated that the existing outer lots were the septic lots and these developments that were done many years ago were not sustainable. He stated that responsible development took advantage of natural features and provided amenities that were compatible with the density. He stated that they were compatible with the price points and they believed that they had put forth a good smart development and they requested a favorable recommendation.

Mr. Brad Whicker then reminded the members of what they would decide on as a recommendation to the Board of County Commissioners.

Mr. Wornhoff asked for clarification on exactly what they were voting on.

Mr. Whicker replied that their vote would be a recommendation to the Board of County Commissioners on the rezoning of the property in question to a PUD/Planned Unit Development District.

Mr. Dombrosky added that the zoning amendment in front of the Board did include the specifications of the development including lot sizes and widths.

Mr. Whicker added that it basically set their maximums and that what was presented as a development was a conceptual plan and that it would be adjusted based on drainage requirements as well as other things. He stated that if the rezoning was approved by the Commissioners, the developer would be required to file an application for a development plan review for the property.

Mr. Dombrosky stated that there was one point where there was a disagreement by the staff as to the developer's plan to plant street trees between the curbs and the sidewalks in their development and that was not allowed in our county based on the County Engineer's expertise and recommendations and was not good for our infrastructure maintenance.

Mr. Ayers verified those facts and that issue was a sticking point for his department as to long term maintenance and preferred that the street trees not be one of the standards for them. He also stated that he had not yet received a final traffic study for the project that reflected conditions discussed with the developer. He stated what that would affect would be the specific designs at the entrances, passing blisters, turn lanes, etc. He added that would be worked out at the development plan review stage. He stated that as far as offsite improvements the weird intersection mentioned by one of the remonstrators was going to be looked at whether or not this development was approved. He stated he did not know if the potential traffic from this new development would push those improvements or not and that the study changes they had asked for would show different volumes at the intersections shown in the study.

Mr. Whicker stated that if the vote was favorable, the vote must address the street tree issue and if it was unfavorable, that issue would not be considered.

Mr. Dombrosky clarified that it would not be part of their motion that would be favorable or unfavorable. He stated the staff just needed to clarify with them that the matter should be either changed or kept as is.

Mr. Tim Whicker asked about the staff recommendation that said they did not think that the proposed PUD Ordinance for Sonora exceeded our regulations specifically when it came to architectural and landscaping requirements. He asked if the developer had exceeded those requirements.

Mr. Dombrosky stated that they had almost doubled the requirements from what had been originally proposed.

February 13, 2018

Mr. Tim Whicker also asked for verification that the Smart Series of proposed homes could use vinyl siding rather than the Hardi-Plank committed to in the Prestige Series.

Mr. Dombrosky stated that was correct.

Mr. Gentry then asked when would be the next time the public could have input on this project.

Mr. Brad Whicker responded that would happen during the development plan review hearing and he also understood that public comment could be taken at the Drainage Board.

Mr. Gentry added that at the Board of Commissioner's meeting, public comments were often taken as well. Mr. Gentry also commented that he agreed with Mr. Starkey's remarks as to the poor soils in the are of the proposed development and that those existing homes on septic systems were sitting on a ticking time bomb for failures to occur. He also discussed meetings that were had at the Regional Sewer Board on the same issue and the cost of sewer installation in that area.

Mr. Dombrosky stated that he had asked Jim Mardis, the Director of the Hendricks Regional Sewer District to speak to the homeowners on the north side of County Road 650 North as there were more specific concerns and questions about how that sewer infrastructure would be put in place. He added that Mr. Mardis could be contacted for more questions.

Mr. Palmer asked about the traffic study and whether it included the impact north and east of the proposed development.

Mr. Ayers responded that it had not and discussed figures on peak hour volumes in that area and that the numbers were not significant enough to warrant a change.

Mr. Palmer asked where the balance of the cars went. He added that the average assumption was 2.6 people per unit.

Mr. Ayers explained about an ITE standard used and how that was calculated for peak hours. He discussed what changes he anticipated for that area when the Ronald Reagan Parkway was completed and how it would affect traffic patterns.

Mr. Palmer stated he had voiced his concern about the traffic impact at the previous hearing and that he felt it had not been addressed at this meeting. He added that another matter he wanted clarification on was the price used to model.

Mr. Joyce responded that their number in the fiscal study was not based on minimums but on what the developer thought the average house would be. He stated that they had used that and compared the average home to other similar homes.

Mr. Palmer asked if they had taken an average that the developer gave them.

Mr. Joyce stated that they had looked at the sales price too and that it was not just one figure but a combination.

Mr. Gentry then asked if there was anything that prevented most of the homes selling initially being lesser quality homes and affecting the sale of the higher quality homes.

Mr. Dombrosky stated he did not know how we would begin to do that.

Mr. Brad Whicker stated it would not be in the best interests of the developer to do that. Mr. Whicker asked Mr. Isaacs if the development would be build in possibly five phases.

Mr. Isaacs responded that the way it would end up being phased was that with the sewer coming from the south and the development expanding from there upwards and as it was phased out their goal would be to manage the number of units of each type that would come in at any given time based on the constraints of the site. He added that drainage went in different directions and sewers from another direction and as time went on it would eventually filter out in a land agreement and the plan now was that they would divide part of the Starkey property the second year and part of it the third year. He stated it phased that way with the intention to run from the southeast quadrant to the northeast quadrant. He stated there would be second entrances as the phasing played out.

Mr. Whicker thanked Mr. Isaacs for the clarification.

Mr. Tim Whicker then talked about the setbacks meeting the current ordinance.

Mr. Dombrosky stated that might be something that could be discussed later to determine if the ordinance needed to be changed.

Mr. Palmer then asked if they needed to make their decision based on the ordinance or on what they felt was right based on the expert recommendations from the fire marshal.

Mr. Brad Whicker responded based on our ordinance which we had the right to work off.

Mr. Palmer stated that we had the right but that we also had an expert that testified that 7-1/2 feet was not safe.

Mr. Brad Whicker added that was not what was being presented at this meeting. He stated if a recommendation was made it would be for 286 lots which would not be able to be carved out likely with changes to the setbacks.

Mr. Palmer stated he understood and he was just asking if we had the ability to vote against the ordinance based on the expert testimony.

Mr. Whicker stated that might be something for the county attorney to comment on.

Mr. Steuerwald then stated what was before them was not the county ordinance but the proposed PUD Ordinance for the development. He stated that was what they were voting on or were making a recommendation on. He stated that it happened to coincide with the current county ordinance but that what they were acting on by making a recommendation either favorable or unfavorable or no recommendation was the ordinance they had before them.

Mr. Wornhoff asked what the consequence of no decision would be.

Mr. Steuerwald responded that it would still go before the County Commissioners as a rezoning was a legislative act and the Commissioners were the entity which acted in a legislative capacity on all zoning matters. He stated there were certain procedures and actions they had to follow based upon your recommendation.

Mr. Gentry then asked if they should feel comfortable if there was a favorable recommendation that we could address all the questions that had been asked at the plan review level.

Mr. Brad Whicker responded that there were opportunities to do that but that there were limitations on what could be addressed after the Commissioners voted to approve it. He stated that changing sideyard setbacks would be too late.

Mr. Dombrosky stated that they could impose higher fire construction standards to address that issue. He stated that they had heard one expert but had not elicited comments from others. He stated he

February 13, 2018

had not had time to do research on why the ordinance was adopted in 2008 with that 7-1/2 foot setback and if it was dangerous and why others supported that standard. He stated if they were sure that was a problem, there were other construction standards that could be imposed. He stated, however, at the development plan review, it would be too late to increase that side setback.

Mr. Gentry commented on how many things were not on the table during a development plan review.

Mr. Dombrosky replied that the development standards which were lot size, square footage, setbacks and it was all set out in the ordinance and would be set after tonight's decision.

Mr. Gentry stated this was all due to it being a PUD ordinance.

Mr. Steuerwald stated that after their recommendation went to the Board of Commissioners, the Commissioners had the ability to put conditions on.

Mr. Wornhoff asked if they could reset setbacks.

Mr. Dombrosky stated that the Commissioners had more of an ability to negotiate than the Plan Commission did. He stated if there was something that you felt strongly needed to be addressed further, you could make it part of your comment tonight and part of the record and ask that the Commissioners address it in their meeting.

Mr. Gentry then suggested that a list of their specific concerns could be taken from the minutes of this meeting so that they could be spelled out for the Commissioners.

Mr. Dombrosky stated that he could do that and when he made his presentation to the Commissioners he would point out the things that were of concern and how it was proposed they could be addressed.

Mr. Whicker then stated if there were no more questions, the members needed to consider making a recommendation.

After several minutes of indecision, Mr. Calderon commented that the silence was telling, and they would be in favor of asking for a continuance to the next meeting in order to work on the concerns expressed by the Commission.

After some discussion from the members, Mr. Whicker asked Mr. Calderon if they felt they had adequate direction from the Commission to present at the next meeting.

Mr. Calderon stated yes.

There was an agreement among the members to continue the matter.

Mr. Whicker then called for a motion to continue.

Mrs. Johnston made a motion to continue **ZA 463/17: MI Homes of Indiana L.P.** for thirty (30) days.

Mr. Palmer seconded the motion.

Mr. Steuerwald added a date was needed for the next meeting.

Mr. Brad Whicker stated he would be out of town on that date of March 13, 2018.

February 13, 2018

Mr. Dombrosky asked if it would help if he summarized their concerns and consulted with each of them to get their concerns exact.

The members all agreed with Mr. Dombrosky's proposal.

There was further discussion on whether to continue the matter to the next meeting date or to set a special meeting date and Mr. Whicker asked if at the next meeting public comments would be taken.

Mr. Dombrosky stated that they had already held the public hearing meeting and they would have to decide if they wanted to conduct another public hearing with comments.

Mr. Steuerwald then added that he recommended subject to the Plan Commission's decision and depending upon the significance of the modification with the plan, if it was going to be a significant modification, then they should allow public comments.

Mrs. Johnston then amended her motion to continue the matter to the next meeting on March 13, 2018 at 6:30 p.m.

Mr. Gentry seconded the motion and the vote was unanimous.

FOR – 7 –

AGAINST – 0 –

ABSTAINED – 0 –

Mr. Whicker then stated before adjournment, Mr. Steuerwald had a matter to discuss with the Commission.

Mr. Greg Steuerwald then discussed a rezoning from 2014 and the project then had come back before the Commission for a development plan review. He stated that none of the remonstrators had appealed the decisions made. He stated, however, 2 or 3 years later, a suit was brought and the Judge granted summary judgment to the neighbors. He stated then that he had filed an amicus brief on behalf of the county to protect the county process and the county decisions. He stated that the Judge then reversed himself and granted a summary judgment for the landlords. He added that depending on what action the Commission took on matters, it might appear as if they were on the side of the remonstrators when the petitioner did not get what he had requested. He said, however, all we really do is protect the decision of the county even though it might appear that we were on one side or the other.

There being no further questions or comments, Mr. Whicker adjourned the meeting at 9:08 p.m.

Tim Dombrosky, Chairman

February 13, 2018