

ORDINANCE NO. 2018- 11

AN ORDINANCE TO AMEND THE ZONING MAP OF HENDRICKS COUNTY, FROM AGR/AGRICULTURE RESIDENTIAL DISTRICT TO GB/GENERAL BUSINESS DISTRICT, COMMONLY KNOWN AS ZA 455/18; DANIEL PRICE, S05-T15N-R2E, WASHINGTON TOWNSHIP, PARCEL TOTALING 4.97 ACRES, LOCATED ON AND ALONG THE WEST SIDE OF RACEWAY ROAD, APPROXIMATELY 0.64 MILE NORTH OF U.S. HIGHWAY 36.

SECTION 1. Be it ordained by the Board of Commissioners of the County of Hendricks, Indiana, that the Zoning Ordinance (2008-16) adopted on the 12th day of August in the year 2008, be amended so as to include in the GB/General Business District, the following described real estate located in the County of Hendricks, Indiana, namely: ZA 455/18; Daniel Price, S05-T15N-R2E, 4.97 acres, Washington Township, located on and along the west side of Raceway Road, approximately 0.64 mile north of U.S. Highway 36.

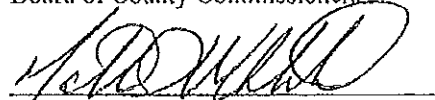
SECTION 2. As inducement for this Zoning Map Amendment, all terms found in the conditions for approval of ZA 455/18: *Daniel Price*, and the "Findings of Fact/Law" attached hereto and made a part hereof, and the "Development Commitment Recording Form" attached hereto and made a part hereof, and the Hendricks County Board of Commissioners having relied on those stipulations and required certain conditions of its own, does hereby adopt said "Findings of Fact/Law" and "Development Commitment Recording Form" as a part of this Ordinance.

SECTION 3. All building or uses permitted and placed upon the described real estate shall fully conform with all the provisions of the County of Hendricks Zoning Ordinance and shall have obtained the proper permits.

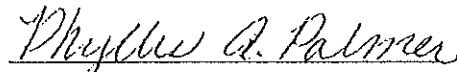
SECTION 4. This Ordinance shall be in full force and effect from and after its passage by the County Commissioners.

Approved by the Board of County Commissioners of Hendricks County, Indiana, the 22nd day of May, 2018.

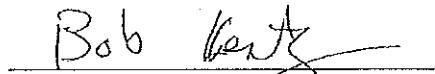
Board of County Commissioners



Matthew D. Whetstone, President

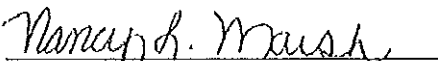


Phyllis A. Palmer, Vice President



Bob Gentry, Member

Attest:



Nancy L. Marsh, Auditor

ZONING AMENDMENT PROJECT DATA

DATE	May 9, 2018				
AGENCY REVIEWS	Hendricks County Board of Commissioners Hendricks County Area Plan Commission				
PROJECT	ZA 455	2018	DANIEL PRICE		
REQUEST	EXISTING	PROPOSED	STAFF RECOMMENDATION		
	AGR	GB	Denial		
SURROUNDING LAND USE	NORTH	SOUTH	EAST	WEST	
	Residence	Residence	Mobile Home Park	Undeveloped	
SURROUNDING ZONING	NORTH	SOUTH	EAST	WEST	
	AGR	AGR	Marion County	RB	
DESCRIPTION	AREA	TOWNSHIP	SECTION	OTHER	
	4.97 ACRES	Washington	S05-T15N-R2E		
ROAD	ROAD	FUNCTIONAL CLASS	R/O/W	SETBACK	
	Raceway Road	Urban Collector	50' from CL	45' from ROW	
SEWER AND WATER	SEWER		WATER		
	Hendricks Regional Sewer District		Citizens Energy Group		
RECENT ZONING AMENDMENTS IN THIS AREA	ZONING AMENDMENT		DETAILS	FROM	TO
	429	2015	THIS PROPERTY WAS DENIED A REZONE FROM AGR TO GB IN 2015.	AGR	GB
	331	2005	APPROVED. THE APPLICANT WAS GOING TO BUILD A DANCE STUDIO, WHICH HAS NOT HAPPENED.	RA	GB
COMPLIANCE	This project has complied with the applicable application and/or notification requirements.				
	This project does not comply with the Hendricks County Comprehensive Plan.				

-Staff Comments-**Background;**

The request concerns a property located on the west side of Raceway Road, approximately 0.64 miles north of US Highway 36. The applicant is requesting to rezone the property from AGR to GB to accommodate a self-storage facility.

The comprehensive plan;

The proposal does not substantially comply with the recommendations of the Hendricks County Comprehensive Plan. The Comprehensive Plan designates this area for Urban Residential. However, there is a GB zoned property two lots north of the said property. There is also a legal nonconforming salvage yard two properties to the south.

Staff does not feel strongly either one way or the other about this type of use at this particular location. The applicant has provided the following commitments due to the feedback in the previous denial back in 2015:

1. The only allowed use for the site would be self-storage or residential uses
2. Maximum number of buildings shall not exceed six (6).
3. No building shall have more than eighteen (18) units.
4. The maximum number of storage units shall not exceed one hundred-eight (108).
5. The maximum square footage shall have not exceeded 2,700 SF.
6. The overall square footage of the storage units shall not exceed 15,300 SF.
7. The minimum distance of any building from the centerline of Raceway Rd shall be 672.71 feet
8. The parcel shall be developed providing a "Level Three (3) Buffer Yard" on and along the northerly, westerly and southerly boundaries. The northerly and southerly Buffer Yard shall have a minimum depth of forty (40) feet. Existing vegetation on and along said yards shall be retained as much as possible and enhanced, as necessary, to be compliant with the Planning Material Unit Values as mandated pursuant to Tables 7.7 and 7.8 of the 2008 Hendricks County Zoning Ordinance.

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

The proposed use will not negatively impact the district due to its proximity to other surrounding mix of uses.

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

The most desirable use for this property would be a residential use (single-family, two-family or multi-family) or permitted uses in the Neighborhood Business (NB) district.

The conservation of property values throughout the jurisdiction;

The property values probably would not be affected negatively if the rezone is approved due to the mix of uses in the area.

Responsible development and growth.

The proposed rezone would not be responsible development and growth due to this request being more so spot zoning and does not meet the Comprehensive Plan. Spot zoning is granting a particular parcel of land a classification concerning its use that differs from the classification of other land in the immediate area. In this case, the immediate area has residential uses. While spot zoning can have a negative association, granting a spot zoning would be more appropriate at an intersection such as Raceway and 10th Street or Raceway and US 36.

Other considerations;

The proposal would require Development Plan Review approval.

-Staff Recommendation-

Based on the information provided, staff recommends the Plan Commission recommend: **DENIAL**

The staff determination was made on the fact that this property is designated for Urban Residential in the Comprehensive Plan. In staff's opinion self-storage does not seem to fit under the Urban Residential character. Furthermore, both adjacent properties are currently being utilized as single-family residential. By approving, this rezone request could set a precedent for future approvals of spot zoning.

Hendricks County Area Plan Commission
Findings of Fact/Law
ZA 455/18: Daniel Price

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 PB/Planned Business District to AGR/Agriculture Residential District. 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 proposal does comply with the recommendations of the Hendricks County Comprehensive Plan, the use is complementary to Urban Residential.

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

The proposed use will not negatively impact the district due to its proximity to other surrounding mix of uses and major thoroughfares.

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

The most desirable use for this property would be a residential use (single-family, two-family or multi-family) or uses that complement Urban Residential uses.

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

Property values probably would not be affected negatively due to the mix of uses in the area.

(5) Responsible development and growth.

The proposed rezone would be responsible development and growth due to the mix of uses in the area.

For all the foregoing reasons, the Commission recommends approval of this request for a zoning map amendment on the 22nd day of May, 2018.

AREA PLAN COMMISSION
HENDRICKS COUNTY, INDIANA

Tim Dombrosky



Section 12.04 of the Zoning Ordinance for Hendricks County, Indiana, requires the use of this form in recording commitments made with any Area Plan Commission approval, in accordance with Chapter 12, and I.C. 36-7-4-1015.

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Hendricks County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Property Owner: Daniel and Mona Price

Deed
Information: Book: _____ Page: _____ Instrument: 201426200

Legal Description:

See "Exhibit A"

Statement of COMMITMENTS:

1. The maximum number of buildings shall not exceed six (6).
2. No buildings shall have more than eighteen (18) units.
3. The maximum number of storage units shall not exceed one-hundred-eight (108).
4. The maximum square footage per building shall not exceed 2,700 square feet.
The overall square footage of storage units shall not exceed 15,300 square feet.
6. The minimum distance of any building from the centerline of Raceway Road shall be 672.71 feet. (Note: This would be approximately 571 feet west of the westerly exterior walls of the residential structures situated on the northerly southerly contiguous parcels and also being subject to the "Level Three Buffer Yard".)
7. The parcel shall be developed providing a "Level Three (3) Buffer Yard" on and along the northerly, westerly, and southerly boundaries. The northerly and southerly Buffer Yards shall have a minimum depth of thirty (30) feet. The westerly Buffer Yard shall have a minimum depth of forty (40) feet. Existing vegetation on and along said yards shall be retained as much as possible to be compliant with the Planting Material Unit Values as mandated pursuant To Tables 7.7 and 7.8 of the 2006 Hendricks County Zoning Ordinance.

These COMMITMENTS shall run with the land, be binding on the owner, subsequent owners of the real estate and other persons acquiring interest therein. These COMMITMENTS may be modified or terminated by a decision of the Hendricks County Area Plan Commission made at a public hearing after the proper notice has been given.

With acceptance of these COMMITMENTS, the Hendricks County Area Plan Commission does not relinquish its right to change certain uses and conditions if the public's health or safety is at immediate risk.

COMMITMENTS contained in this instrument shall be effective upon the approval of petition # ZA 455/18 pursuant to the Zoning Ordinance, and shall continue in effect or until modified or terminated by the Hendricks County Area Plan Commission.

These COMMITMENTS may be enforced jointly or severally by:

1. The Hendricks County Area Plan Commission;
2. _____

_____ ; and
3. _____

The undersigned hereby authorizes the Planning & Building Department of Hendricks County, Indiana, to record this COMMITMENT in the Office of the Recorder of Hendricks County, Indiana, upon approval of petition # ZA 455/18.

IN WITNESS WHEREOF, owner has executed this instrument this 17th day of May, 2018.

Signature *Daniel Price* (Seal)
 Printed Daniel Price
 Title Owner

Signature *Mona Price* (Seal)
 Printed Mona Price
 Title Owner

Signature _____ (Seal)
 Printed _____
 Title _____
 State of Indiana _____)
 _____)
 County of Hendricks)

Signature _____ (Seal)
 Printed _____
 Title _____

(Individual Acknowledgement)

STATE OF: INDIANA)
) SS:
 COUNTY OF: HENDRICKS

Before me, Notary Public in and for said County and State, personally appeared Daniel and Mona Price, owners of the real estate who acknowledged the execution Foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 17th day of May, 2018.

Signature: *Joel T. Brame*
 Printed: Joel T. Brame

County of Residence: Hendricks

My Commission Expires: March 3, 2021



(Organization Acknowledgment)

STATE OF)
) SS:
COUNTY OF)

Before me, Notary Public in and for said County and State, personally appeared

_____ the _____ of _____
owners of the real estate who acknowledged the execution foregoing instrument and who,
having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal
this _____ day of _____,

Signature _____

Printed _____

County of Residence _____

My Commission
expires:

Redaction Statement

"I Affirm, under the penalties for perjury, that I have taken reasonable care to redact
each social security number in this document, unless required by law."

Michael R. Sells
Printed Name

Approved for recording on this 21 day of Sept 2018.

Timothy Dombrosky
Timothy Dombrosky,
Director, Planning & Building Department

This instrument was prepared
by: Michael R. Sells, Kruse Consulting, Inc.
Printed Name

Exhibit A

Legal Description:

Part of the Northeast Quarter of Section 5, Township 15 North, Range 2 East, Hendricks County, Indiana, described as follows:

Beginning on the East Line of said Section, 699.6 feet north of the Southeast corner of the Northeast Quarter of said Section; thence west parallel with the South line of said Quarter Section 1,245.42 feet; thence north parallel with the East line of said Section 200.0 feet; thence east parallel with the South line of said Section 622.71 feet; thence south parallel with the East line of said Section 50.2 feet; thence east parallel with the South line of said Quarter Section 622.71 feet the East line of said Quarter Section at a point 849.4 feet north of the Southeast Corner of said Quarter Section; thence south along said East line 149.8 feet to the Point of Beginning and containing 4.97 acres, more-or-less, and subject to all easements and rights-of-way of record.