

January 12, 2016

A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, January 12, 2016 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; Mr. Doug Sisk, Vice-President; Mrs. Sonnie Johnston; Mr. Bob Gentry; Mr. Walt O'Riley; and Ms. Angela Tilton. Member absent was: Mr. Damon Palmer. Staff members present were: Mr. Don F. Reitz, AICP, Secretary and Director of Planning; Mr. Owen Young, Planning Technician; and Mrs. Joanne Garcia, Recording Secretary.

The meeting was opened with the Pledge of Allegiance. There were six (6) members present.

Mr. Whicker called for approval of the December 8, 2015 Plan Commission meeting minutes.

Mrs. Johnston made a motion to grant approval for the December 8, 2015 minutes.

Mr. Gentry seconded the motion with Ms. Tilton and Mr. O'Riley abstaining.

FOR – 4 – AGAINST – 0 – ABSTAINED – 2 –

Mr. Whicker then called for approval of the 2016 Hendricks County Area Plan Commission Officers and Plat Committee/BZA Member.

Mr. Gentry made a motion to nominate Mr. Brad Whicker as President of the Hendricks County Area Plan Commission for 2016.

Mrs. Johnston seconded the motion.

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

Mr. Gentry made a motion to nominate Mr. Doug Sisk as Vice-President of the Hendricks County Area Plan Commission for 2016.

Mrs. Johnston seconded the motion.

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

Mr. Gentry then made a motion to nominate Mrs. Sonnie Johnston as the Hendricks County Area Plan Commission Administrative & Plat Committee Member and also as the Board of Zoning Appeals Member for 2016.

Mr. Sisk seconded the motion.

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

That ending the election of officers, Mr. Whicker then introduced the newest member of the Plan Commission replacing Mr. Eric Wornhoff, that being Ms. Angela Tilton as the Hendricks County Purdue Extension Office representative for the Hendricks County Area Plan Commission.

Mr. Whicker then called for the public hearing on the following matter:

ZA 376/16: PUD ABANDONMENT & ZONING AMENDMENT (FOXHAVEN); an abandonment per Section 6.9 of the Hendricks County Zoning Ordinance and a zoning amendment change from PUD/Planned Unit Development to AGR/Agriculture Residential District, 324 acres, Brown Township, S18,19-T17N-R2E, located on the north and south sides of County Road 1000 North between County Road 950 East and County Road 1075 East.

Mr. Reitz then gave the following presentation on the particulars of the abandonment of the former Foxhaven PUD and the request for a rezoning of sixteen (16) parcels on 324 acres to an AGR/Agriculture Residential District.

Jan 2007: PUD district was established for a 324 acre, 536 lot residential subdivision known as Foxhaven

- No development occurred

Dec 2012: Foxhaven property in hands of a bank.

- Bank wanted to retain PUD zoning

Aug 2015: Foxhaven property divided up among five separate entities

- Queried owners: Favorable response from those that responded

Why Remove PUD Zoning?

PUDs are “custom” zoning districts

- Special development standards
- Unique architectural requirements
- Special lot dimensional standards
- Varied residential densities
- Different permitted uses
- Development requires central water and sewer
- IC 36-7-4-602(c): PC may initiate a rezoning
- HCZO Section 6.9 authorized the PC to rezone a PUD if a PUD has been declared abandoned.
- Abandonment occurs when no improvements have been made pursuant to the PUD's approved secondary development plan for 24 months.
- Foxhaven PUD never received secondary development plan approval and the zoning has been on the books for almost 9 years. It more than meets the definition of abandonment.
- PUD original zoning: AGR/Agriculture Residential
- Majority of zoning in the area: AGR/Agriculture Residential
- Established land use in the area: agriculture and rural residential

Staff Recommendation: Plan Commission recommend rezoning PUD to AGR

Recommend a two step process:

- (1) Declare Foxhaven PUD abandoned under HCZO 6.9
- (2) Recommend rezoning PUD to AGR based on Findings of Fact

Mr. Reitz called for questions or comments.

Mr. Whicker thanked Mr. Reitz and opened up the meeting for questions from the members.

Mr. Sisk asked if there were any other similar matters planned for the future.

Mr. Reitz stated no there were not.

Mr. Whicker then opened the public portion of the hearing and called on the first person signed up to be heard.

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Mr. Cory Darling of 9935 East County Road 1000 North appeared. Mr. Darling stated that he had been attending the meetings on Foxhaven since 2000. He stated he was surprised there were not more property owners present. He commended Mr. Reitz for looking into the matter and recommending the abandonment of the PUD and the return to the AGR zoning. He stated that the PUD designation did not fit into the community. He recommended to the members that for the future if any other such requests for rezoning were brought before them, that they please place a type of sunset clause so that if development did not occur the projects could be considered null and revert back to their original zoning.

Mr. Jacob Harral of 9365 East County Road 1000 North appeared. He stated he supported the rezoning to the AGR district. He then asked if there would be any effect on drainage assessments.

Mr. Reitz stated that question could be answered by the Drainage Board.

Mrs. Johnston stated the members did not know the answer to that question.

Mr. Gentry stated he did not think there would be an effect if the property was already platted. He stated if there were lots platted, they would be assessed at \$100.00 per lot. He stated if the Drainage Board was only taking in the outlet that would be assessed at \$50.00 per lot.

Mr. Darling commented that he did not know if the zoning of a property affected the drainage at all.

Mr. Whicker stated since the project never got past the rezoning stage, he did not think assessments were made. He suggested that Mr. Harral get back in a day or two with Mr. Reitz' office of Planning & Building and Mr. Reitz could get a more definite answer for him or Mr. Harral could call the Surveyor's office directly and ask for the County Surveyor, David Gaston.

There being no one else signed up to be heard, Mr. Whicker closed the public hearing and asked for further questions or comments.

Mr. Reitz stated that two separate motions were needed for the PUD abandonment Findings of Fact and the rezoning Findings of Fact.

Mr. Gentry then made a motion to approve **ZA 376/16: Foxhaven PUD Abandonment & Rezoning** subject to the following:

1. Conditions & recommendations in staff's memorandum dated December 30, 2015 and under the Hendricks County Zoning Ordinance Section 6.9 PUD Abandonment.

Mrs. Johnston seconded the motion.

FOR – 6 –

AGAINST – 0 –

ABSTAINED – 0 –

The staff memorandum was as follows:

MEMORANDUM

Date: 30 December 2015
To: Plan Commission
From: Planning Staff

Subj: **ZA 376/16: FOXHAVEN PUD ABANDONMENT AND REZONING**

This is a plan commission-originated petition to remove the PUD/Planned Unit Development zoning designation from 324 acres of land in Brown Township (location map attached). The PUD designation was established by the Board of Commissioners in 2007 as part of the Foxhaven residential

development. The Foxhaven project never developed. By 2015, the 324 acres of PUD-zoned land had been split up and sold to five separate parties. This indicates (1) that there is no possibility that the Foxhaven project will ever be developed, and (2) that there will never be a need for the PUD zoning.

Section 6.9 of the Hendricks County Zoning Ordinance addresses this situation. It authorizes the plan commission to abandon a PUD and to rezone the land to its pre-PUD zoning or other appropriate zoning district if development of the PUD does not begin within two years of secondary plat/development plan approval. As the Foxhaven PUD did not get as far as secondary approval and the PUD designation has been on the books for almost nine years, it more than meets the definition of abandonment.

Why Remove PUD Zoning?

PUDs are “custom” zoning districts. These allow developers the flexibility to take advantage of unique development standards, special architectural standards, varied residential densities, mixed uses, and other creative physical design elements to develop unique and attractive communities. These custom development standards are tied to a specific development.

In this case, they are tied to a 324 acre, 536 lot suburban residential subdivision, and in that context they make perfect sense. But that subdivision never got built. What exists out there is a well established rural residential and agricultural community. In this context, the PUD standards make no sense at all.

Staff Recommendation

The staff recommends the following two-step action:

1. Declare abandoned all the land zoned PUD under ZA 376/07 (Foxhaven) based on HCZO 6.9.
2. Recommend that the Commissioners rezone the PUD land to AGR/Agriculture Residential based on draft findings of fact.

Mr. Gentry then made a motion to send a favorable recommendation for **ZA 376/16: Foxhaven PUD Abandonment & Rezoning** to rezone the property from PUD/Planned Unit Development District to AGR/Agriculture Residential District based on the draft Findings of Fact/Law.

Mrs. Johnston seconded the motion.

FOR – 6 –

AGAINST – 0 –

ABSTAINED – 0 –

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, January 26, 2015 at 9:00 a.m. or thereafter.

The draft Findings of Fact/Law were as follows:

Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 376/16: Foxhaven PUD Abandonment and Rezoning

Having declared the Foxhaven PUD (PUD 376/06) abandoned under Hendricks County Zoning Ordinance Section 6.9 PUD Abandonment, an application for the above noted zoning map amendment was filed by the Hendricks County Area Plan Commission itself in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to rezone property from PUD/Planned Unit Development to AGR/Agriculture Residential. 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 this area for Rural Residential land uses. Down zoning the land under consideration from PUD to AGR as proposed will cause it to better fit within the existing rural residential character of the area.

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

The Commission finds that the proposed down zoning is consistent and compatible with the character of current structures and uses in the zoning district. The establishment of the proposed AGR zoning will not substantially change the nature of the already-AGR zoned area with its long-established residential and agricultural land uses.

(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 property under consideration is located within a well-established agricultural and rural residential neighborhood which is already zoned AGR. The proposed AGR zoning is entirely compatible with both the existing and Comprehensive Plan-recommended future land use patterns.

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

The Commission finds that the proposal does conserve property values in the jurisdiction. The establishment of AGR zoning in this already-AGR zoned rural residential area is consistent with current residential and agricultural uses and will have no deleterious effect on property values.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth. The proposed down zoning to the AGR zoning district is consistent and compatible with the land use recommendations of the Comprehensive Plan for future growth and with existing land use patterns in the area.

For all the foregoing reasons, the Commission recommends approval of this request for a zoning map amendment on the 12th day of January, 2016.

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There being no further business to discuss, the meeting adjourned at 6:52 p.m.

Don F. Reitz, AICP, Secretary