

ORDINANCE NO. 2018- 13

AN ORDINANCE TO AMEND THE ZONING MAP OF HENDRICKS COUNTY, FROM AGR/AGRICULTURE RESIDENTIAL DISTRICT TO HB/HIGHWAY BUSINESS DISTRICT, COMMONLY KNOWN AS ZA 456/18: FSM PROPERTIES, LLC, S09,10-T14N-R1W, LIBERTY TOWNSHIP, PARCEL TOTALING 2.72 ACRES, LOCATED AT THE NORTHEAST QUADRANT OF THE INTERSECTION OF U.S. HIGHWAY 40 AND COUNTY ROAD "0."

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 HB/Highway Business District, the following described real estate located in the County of Hendricks, Indiana, namely: ZA 456/18: FSM Properties, LLC, S09,10-T14N-R1W, 2.72 acres, Liberty Township, located at the northeast quadrant of the intersection of U.S. Highway 40 and County Road "0."

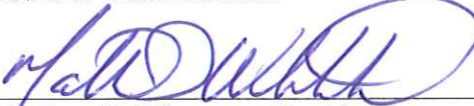
SECTION 2. As inducement for this Zoning Map Amendment, all terms found in the conditions for approval of ZA 456/18: *FSM Properties, LLC*, and the "Findings of Fact/Law" attached hereto and made a part hereof, and the "Development Commitment Recording Form" attached hereto and made a part hereof, and 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.

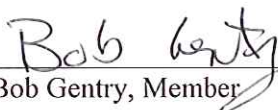
SECTION 4. This Ordinance shall be in full force and effect from and after its passage by the County Commissioners.

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

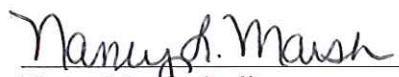
Board of Commissioners


Matthew D. Whetstone, President


Phyllis A. Palmer, Vice President


Bob Gentry, Member

Attest:


Nancy Marsh, Auditor

Hendricks County Area Plan Commission
Findings of Fact/Law
ZA 456/18: FSM Properties

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 substantially comply with the recommendations of the Hendricks County Comprehensive Plan. The Comprehensive Plan designates this area for Agriculture. However, the property is surrounded by an existing HB zoning district. There is also a plant farm to the west and is at a major intersection.

(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.

- (3) **The most desirable use for which the land in each district is adapted;**
The most desirable use for this property would be an Agriculture use such as an Agriculture Business or a similar compatible use such as what is being proposed.
- (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 as it follows a recommended pattern of more intense uses locating along major thoroughfares.

For all the foregoing reasons, the Commission recommends approval of this request for a zoning map amendment on the 26th day of June, 2018.

AREA PLAN COMMISSION
HENDRICKS COUNTY, INDIANA


Tim Dombrosky

ZONING AMENDMENT PROJECT DATA

DATE	June 12, 2018				
AGENCY REVIEWS	Hendricks County Board of Commissioners Hendricks County Area Plan Commission				
PROJECT	ZA 456	2018	FSM PROPERTIES LLC		
REQUEST	EXISTING AGR	PROPOSED HB	STAFF RECOMMENDATION Approval		
SURROUNDING LAND USE	NORTH Vacant	SOUTH Farm Field	EAST Self-Storage	WEST Plant Farm	
SURROUNDING ZONING	NORTH HB	SOUTH AGR	EAST HB	WEST AGR	
DESCRIPTION	AREA 2.72 Acres	TOWNSHIP Liberty	SECTION S10-T14N-R1W	OTHER	
ROAD	ROAD E US Hwy 40 County Rd 0	FUNCTIONAL CLASS Rural Principal Arterial Rural Minor Arterial	R/O/W 100' from CL 75' from CL	SETBACK 80' from ROW 50' from ROW	
SEWER AND WATER	SEWER Septic		WATER Well		
RECENT ZONING AMENDMENTS IN THIS AREA	ZONING AMENDMENT 259 2001		DETAILS Approved with five excluded uses*		FROM R-1
					TO C-4
	Excludes uses are: wholesale business; boat (sale and service); garage (repair, service); motorcycle/scooter (sales, service and repair); and day care center.				
COMPLIANCE	This project has complied with the applicable application and/or notification requirements.				
	This project does comply with the Hendricks County Comprehensive Plan.				

-Staff Comments-

Background;

The request concerns a property located at the NE intersection of US Highway 40 and County Road "0". The applicant has interest in operating a self-storage facility (expanding from the east) and converting the existing home into a business use.

In 2001, the lot that surrounds the subject lot had five restricted uses imposed on it when it got rezoning approval from residential to commercial. To keep with the character of the area and the wishes of the previous Planning Commission approval, the same restrictions are being implemented on the subject lot (if approved). The restricted uses are as follows: wholesale business; boat (sale and service); garage (repair, service); motorcycle/scooter (sales, service and repair); and day care center.

In addition, staff recommends closing the driveway off US Hwy 40 and closing one of the driveways off County Road 0, which the applicant has agreed to put this commitment on the property.

The onsite septic system will have to be approved/permitted by the Indiana State Department of Health and the Hendricks County Health Department prior to the change of use.

The comprehensive plan;

The proposal does substantially comply with the recommendations of the Hendricks County Comprehensive Plan. The Comprehensive Plan designates this area for Agriculture. However, the property is surrounded by an existing HB zoning district. There is also a plant farm to the west and is at a major intersection.

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 an Agriculture use such as an Agriculture Business or a similar compatible use such as what is being proposed.

Responsible development and growth.

The proposed rezone would be responsible development and growth as it follows a recommended pattern of more intense uses locating along major thoroughfares.

Other considerations;

The proposal would require Development Plan Review approval.

-Staff Recommendation-

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

201821659 MISC \$0.00
09/21/2018 02:17:17P 4 PGS
Theresa D. Lynch
Hendricks County Recorder III
Recorded as Presented



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: FSM PROPERTIES, LLC

Deed Information: Instrument No. 201803355

Legal Description: See "Exhibit A"

Statement of COMMITMENTS:

1. Prior to commercial use or occupancy of the land described in attached Exhibit "A", the landowner shall remove the existing driveway access onto U.S. Highway 40; and shall also reduce the number of driveway access points on County Road 0 to one (1) full access point serving the real estate described in Exhibit "A", which access point shall be located directly across from the Cox's Plant Farm south entrance on County Road 0. This Commitment shall only apply to the real estate described herein, and shall not affect access points on adjoining tracts of real estate.

2. The following uses shall be prohibited on the real estate described in attached Exhibit "A":

Wholesale Business; Boat (sale and service); Garage (repair, service); Motorcycle/Scooter (sales, service and repair); and Day Care Center.

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 Board of Zoning Appeals 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 456/18 (LB) 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;

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 456/18 (LB).

IN WITNESS WHEREOF, owner has executed this instrument this 12th day of June, 2018.

FSM Properties, LLC

Signature 

Printed WALEED BEGG

Title Manager

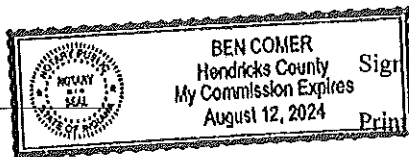
Notary acknowledgement on separate attached page.

STATE OF INDIANA)
)
HENDRICKS COUNTY)

Before me, Notary Public in and for said County and State, personally appeared Waleed Beg, the Manager of FSM Properties, LLC, owner 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 12th day of June, 2018.

My Commission expires:



Signature

[Signature]

Printed

County of Residence _____

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, Ben Comer.

This instrument was prepared by: Ben Comer, Attorney-at-Law, 71 West Marion Street, P.O. Box 207, Danville, IN 46122, telephone: (317) 745-4300.

Approved for recording on this 21st day of Sept 2018.

[Signature]
Tim Dombrosky
Director, Planning & Building Department

Exhibit A

Legal Description:

Part of the Southeast quarter of the Northeast quarter of Section 9, and a part of the Southwest quarter of the Northwest quarter of Section 10, all in Township 14 North, Range 1 West, Hendricks County, Indiana, bounded and described as follows, to-wit:

Beginning in the Southeast quarter of the Northeast quarter of said Section 9 at a point which is 132 feet West of the East line thereof and which is 532.97 feet North of a stone in the South line of said quarter quarter Section (which stone is 132 feet West of the Southeast corner thereof) and running thence North parallel to the line between said Sections 9 and 10 a distance of 281.25 feet; thence North 71 degrees 25 minutes East 139.26 feet to said Section line; thence continue North 71 degrees 25 minutes East 241.17 feet; thence South parallel to said Section line 343.50 feet to the North right of way line of U.S. Highway No. 40; thence South 71 degrees 25 minutes West on and along the North right of way line of said highway (parallel to and 40 feet Northerly, measured at right angles, from the center of the North paved lane thereof) a distance of 36.57 feet to a concrete monument; thence South 73 degrees 33 minutes West on and along said right of way line 241.30 feet to a concrete monument; thence North 61 degrees 10 minutes West on and along said right of way line 67.91 feet to the East line of the County Road; thence South 71 degrees 25 minutes West 36.93 feet to the point of beginning, containing 2.72 acres, more or less, of which 0.94 acres lies in Section 9 and 1.78 acres lies in said Section 10. Subject to all highways, rights of way, and easements.