

July 12, 2016

A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, July 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. John Ayers, County Engineer; Mr. David Gaston, County Surveyor; Mrs. Julie Haan, Environmental Health Director; Mrs. Lesa Ternet, Senior Planner; Mr. Nicholas Hufford, Planner; 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 June 14, 2016 Plan Commission meeting minutes.

Mrs. Johnston made a motion to grant approval for the June 14, 2016 meeting minutes.

Ms. Tilton seconded the motion with Mr. Whicker abstaining.

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

Mr. Whicker called for the public hearing item as follows:

ZA 441/16: BCFI, LLC; a zoning amendment change from HB/Highway Business District to LI/Light Industrial District, 51.92 acres, Middle Township, S25-T17N-R1W, located on the north side of Interstate 74, approximately 0.26 mile west of County Road 275 East. (Comer Law Office)

It was noted here that Mr. Bob Gentry, Plan Commission Member, recused himself from this hearing as he stated he was the owner of property located near the application site.

Mr. Andy Kult of the Comer Law Office, 71 West Marion Street, Danville, appeared on behalf of the applicant, Brayden Fleece, BCFI, LLC, who was also present. Mr. Kult reviewed the location of the application property located northwest of the intersection of I-74 and County Road 275 East or commonly known as Jeff Gordon Boulevard. He stated that the property was also located across the interstate from the Steel Dynamics plant and the Love's Truck Stop. He stated the property included approximately 52 acres of ground and was currently zoned HB/Highway Business. He stated that BCFI, LLC was the proposed purchaser of the ground and wished to rezone it to LI/Light Industrial District. He stated that BCFI, LLC was a holding company for the real estate and that the purpose for the purchase of the property was for Fleece Performance Engineering to relocate its existing facility from Brownsburg to the Pittsboro area. He stated that the business of Fleece Performance Engineering was designing, light manufacturing and wholesale distribution of vehicle components and parts with a specialization in diesel performance. He stated the company had a website and was started by Mr. Fleece in North Salem, Indiana in 2006. He stated that then Mr. Fleece moved the facility to its current location in Brownsburg in 2012 because of its continued growth. He stated that the company was continually expanding and was looking to the property in question where the company could build its own facility for future development. He stated that the company wished to remain doing business in Hendricks County. He stated that they wished to start out with construction of a 30,000 square foot facility. He stated that there were currently twenty-seven (27) employees. He stated they predicted that within five years, that number would be thirty-five (35) to forty (40) employees. He stated the area to be developed was located south of the existing pond on the property. He stated the applicant was working with Dale Kruse of Kruse Consulting for their site design and engineering. He stated they had discussions with the staff as to the drainage conditions at the site. He stated they had discussions with the Town of Pittsboro in regard to bringing utilities to the site across Interstate 74. He discussed how the LI zoning was compatible with the surrounding uses and that the Comprehensive Plan recommended the area for high intensity non-residential uses. He stated if their petition for rezoning was successful, they would be required to return before the Plan Commission for their development plan.

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Mr. Whicker asked for questions or comments from the members. He reminded them that the petition was strictly considered for rezoning purposes only and that the final decision would rest with the Hendricks County Commissioners.

There being no questions or comments, Mr. Whicker opened the public hearing.

Ms. Kara Sheads of 8740 North County Road 150 East appeared. She stated she felt her questions pertained more to the development of the property.

Mr. Whicker went over the procedure for rezoning and stated that Mr. Kult would respond to her questions after she was finished with her presentation.

Ms. Sheads stated that she felt the Fleece Performance Company was a good one and she stated her comments would be about the high impact for the area. She stated they were concerned about the utilities being brought across I-74 and in particular the sewer. She stated that the availability of sewer across the Interstate could impact residential development in the future. She stated that their reason for locating in the area was because of a more rural setting. She stated that although Mr. Kult had shown that the travel impact from the development would be minimal, she was concerned about the diagnostic travel testing for the equipment they manufactured. She stated she had concerns regarding noise, lighting and pollution runoff.

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

Mr. Kult stated that some of Ms. Sheads' questions would be addressed during the development plan review hearing. He commented that in regard to the utility concerns, they had been in discussion with the Town of Pittsboro, which had indicated they were interested in bringing utilities across I-74. He stated they had also spoken with the Town about annexation of the property. He repeated that the property was in an area of high intensity uses.

Mr. Whicker asked for further comments or questions. There being none, Mr. Whicker called for a motion.

Mr. Sisk then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners and adopt the positive Findings of Fact/Law for **ZA 441/16: BCFI, LLC**.

Mr. O'Riley seconded the motion.

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

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, July 26, 2016 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 441/16: BCFI, LLC

An application for the above noted zoning map amendment was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to rezone a property from HB/Highway Business to LI/Light Industrial 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.

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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 Commercial on the Future Land Use Map and High Intensity (Commercial, Industrial) on the Land Use Intensity Map. The proposed zoning classification is consistent with the Comprehensive Plan's recommendation.

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

The Commission finds that the proposal is consistent and compatible with the character of current structures and uses in the zoning district. There is currently a steel mill and a truck stop to the south of this property. The proposed industrial zoning classification is consistent with the development trend at this interchange.

(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. This site is located near the interchange of I-74 and County Road 275 East where commercial and industrial uses are likely to develop because of the existing commercial/industrial zoning and land uses.

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

The Commission finds that the proposal does conserve property values in the jurisdiction. The proposed zoning is an appropriate and desirable classification for this interchange area. Further, the proposed use is consistent with the existing land uses along the south side of the interstate at the interchange.

(5) Responsible development and growth.

The Commission finds that the proposal does represent responsible development and growth. The proposed use is consistent with the Comprehensive Plan for high intensity uses in this area.

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Mr. Whicker then stated that concluded the regular public and business session of the agenda. He stated that there were some discussion items before the Commission as follows:

1. Minor Plats and Dedication of Public Right of Way

Mr. Whicker stated that this discussion item had received a comment letter from Mr. Eric Wathen and Mr. Jeffrey Banning. Said letter is incorporated into these minutes as follows:

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Hendricks County Plan Commission
355 South Washington Street #212
Danville Indiana 46122

RE: Minor Plats and Dedication of Public Right of Way

Plan Commission Members,

I would ask that this letter be included in the minutes of the discussion during the July 12, 2016 Hendricks County Area Plan Commission meeting.

I would like to request that the dedication of public right of way be removed as a requirement for minor plats. I understand that it has been the practice of the county for many years, but it needs to change. This is really theft of a citizen's personal property. They are being asked to give up compensation for their property for public use. If some point in the future, a road is widened and right of way is required, land owners that had not platted their property would be compensated for the land, yet their platted neighbors would not be since they were required to "dedicate" it.

I think it would be agreeable to have owners respect a setback line for improvements so nothing is built in what could be future required right of way. That way if the purchase of right of way is required, no structure would be affected.

The key to both of these issues is keeping the comprehensive plan up to date with realistic future transportation needs. I am aware of cases where people were required to dedicate a 75'-1/2 right of way on a road that will more than likely never be widened. Add a 50' setback to that and on a 300' wide lot you have effectively "taken" almost 9/10 of an acre without compensation. To give you an idea of how wide the 150' r/w would be, the fences on Interstate 74 are about 180' apart. To me this is unrealistic and not fair to the land owners.

Thank you for your consideration in this matter.

**Eric Wathen
(s)**

**Jeffery Banning
(s)**

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Mr. Reitz stated that the Commissioners had asked the staff to take a look at how right-of-way dedication was done for minor plats, minor residential plats and exempt subdivisions. He stated that this was based on a complaint to the Board of Commissioners from a minor plat applicant who felt that the amount of land he had to dedicate was excessive. He stated that this raised the question of the possibility of being flexible in the amount of land dedicated under circumstances where less than the usual amount of land was warranted. He stated he was not sure of those circumstances but the question had been brought up. Mr. Reitz stated that Plan Commission member and County Commissioner, Bob Gentry, would speak on the matter further.

Mr. Gentry thanked Mr. Reitz and stated that there were differing points of view and that he believed there was a compromise. Mr. Gentry discussed the matter and gave an example of an unfair situation.

Mrs. Ternet responded that the issue Mr. Gentry described would only occur if the property was to be platted to create lots.

Mr. Gentry stated he understood but felt his points were still valid. He stated her point was a technicality that was lost on the general public.

Mr. Ayers stated he was seriously against changing the right of way policy. He stated requiring right of way to be dedicated had always been done by the county with plats of varying widths based on the Comprehensive Plan and based on future need. He stated a discussion was previously had on what improvements were needed in the right of way. He stated he had talked with other counties and some of them didn't require physical improvements to be constructed in the right-of-way. He stated that our county now had that policy in place for minor plats. He stated, however, that all of the counties he spoke too did require right-of-way to be dedicated. He stated from a road perspective, there had been case law on what defined a road right of way. He discussed that case law and stated that for the vast majority of our county roads, it was edge of pavement to edge of pavement or pole line to pole line. He stated there was very little to work with. He explained the current procedures when work had to be done in the right of way. He stated it had always been the Hendricks County policy to acquire the right of way as they could in order to maintain the roads and drainage the way it needed to be done. He stated he understood that the property owner might think it unfair but they had the option of not platting their land and that generally it was because they wanted to sell something and acquiring right of way was just part of that process. He stated he believed that an exemption could be obtained by a property owner so that they would not be taxed on the right-of-way. He stated they would be restricted on what they could use it for but it was generally not a wide swath. He discussed other ways of acquiring right-of-way and then stated that the current practice had been in effect since the sixties and had always been the most effective way and he stated he felt it was a proactive approach to roadways and roadway rights of way. He stated he felt it was somewhat irresponsible to veer from that policy.

Mr. Gentry asked how the citizenry would appeal this policy if they felt it was unfair.

Mr. Ayers stated the same way anyone would appeal policies they did not agree with.

Mr. Whicker stated he would be interested in knowing the practices of surrounding counties and the state on this matter.

Mr. Reitz then stated that their policy was a pretty standard practice.

(It was noted here that Mrs. Haan, Environmental Health Director, left the meeting.)

Mr. Gaston then commented on the matter and discussed the right-of-way issues. Mr. Gaston asked Mr. Steuerwald about the dedication of right of way on a plat.

Mr. Steuerwald commented that the dedication on a plat would be fee simple.

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Mr. Gaston stated that was different than other counties and he discussed what he had learned regarding Putnam & Morgan Counties rules.

Mr. Gentry stated that he understood their views on the matter, but that he was still concerned about the fairness issues in that some property owners would be paid for the right-of-way and some would not.

Mr. O'Riley discussed his understanding of the process.

Mr. Whicker stated he would be in agreement with Mr. Ayer's comments on the matter.

Mr. Ayers discussed a solution of dedicating as an easement and not as fee simple.

Mrs. Ternet commented that they had never had an issue with the right-of-way requirement or received any complaints.

There was further discussion on the matter between the members and staff members.

Mr. Whicker asked if the staff could do more fact finding on the issue for further discussion.

Mr. Whicker then called for the next item for discussion:

2. Special Event Permit

Mr. Reitz stated that this item was for discussion only. He stated that the staff needed the Commission's help regarding a zoning activity category in the zoning ordinance for special events. He stated these permits required no fee and plot plans were required to be submitted showing parking, entrances and exits and temporary signage and time limits. He stated the staff would then review the plot plans for any safety issues. He stated that usually these activities were small scale. He stated, however, that currently the staff received a proposal for a special event that involved 180 acres of land with an estimated 2000 people attending. He stated the location was at State Road 75 and County Road 350 North. He stated the proposal was for a moto cross all-terrain vehicle racing event which would be part of a state wide series of competitions. He stated that it would occur over the weekend of October 15-16, 2016. He stated the activities would include motorcycle racing, ATV racing, camping, vending of food, vending of merchandise, etc. He stated that the special event was so much larger than any other event, he was not comfortable making an administrative decision. He stated it was too big and too consequential. He stated that Mr. Steuerwald had suggested presenting the matter to the Plan Commission by bringing the property owner and racing manager to next month's Plan Commission meeting and have them explain the proposed event. He stated they had received a number of complaints,

Mr. Whicker asked if the surrounding property owners would be notified of the meeting next month.

Mr. Reitz stated as it was not a public hearing, notification might not be legally required; but it might be a good idea to do notification anyway.

Mrs. Ternet informed the members that the property owner had gone door to door informing residents of the proposed event.

Mr. O'Riley asked if this event would be a one-time event.

Mr. Reitz replied that it was to be a one-time event.

Ms. Tilton commented that it could set a precedent.

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There was a consensus among the members for notices to be sent out to the surrounding property owners informing them of the presentation next month.

Mr. Steuerwald then asked the members if they wanted next month's review of the matter to be a public hearing where public comments were taken. He stated the notice sent out should state whether or not public comment would be taken.

There was further discussion among the members on whether or not they wished to receive public comment. There was an agreement that it would be announced at the meeting that the discussion on the matter at next month's meeting would not be public but they would take public comment.

Mr. Sisk asked if the race was sanctioned with a sanctioning body.

Mr. Reitz provided Mr. Sisk with the race organizer's webpage information.

The Hendricks County Sheriff, Brett Clark, was present in the audience. He commented that with a projected 2,000 people in attendance, it would be a difficult event to police.

3. Workshop: State Road 39 Gateway Corridor Plan

Mr. Reitz stated this discussion would present the first draft of the State Road 39 Gateway Corridor Plan. He stated that there were some members of the Steering Committee from the Plan Commission and staff present. He then introduced K.K. Gerhardt Fritz, the Consultant, who would lay out the results of the steering committee's meetings on the plan. Mr. Reitz reminded those present that this was not a public hearing but only a workshop.

K. K. Gerhardt Fritz appeared and stated that the plan being presented was basically an amendment to the Hendricks County Comprehensive Plan. She stated that the planning area was a little over five miles in length and located between U. S. Highway 40 and the interchange at I-70. She reviewed the reasons why the plan was being amended. She stated Hendricks County wanted to be proactive and the area was considered to be a gateway to the county. She stated that the Comprehensive Plan identified this as a high priority area. Her presentation included the following points:

- Review of Plan Scope
- How the draft plan was developed
- The consultants and partners
- Public Input & Steering Committee
- Regular Public Updates & Newsletter
- Online Community Input Questionnaire
- Draft Plan Open House
- Background Economic & Demographic Data
- Resources
- Community Vision for Future with Survey Results
- Transportation
- Action Plan

After discussion, there was a consensus for the matter to be brought before the Commission for a public hearing in September and added as an additional discussion item for the August meeting.

There being no further business, Mr. Whicker then adjourned the meeting at 8:14 p.m.

Don F. Reitz, AICP, Secretary