

December 13, 2016

A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, December 13, 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; Mrs. Sonnie Johnston; Ms. Angela Tilton; and Mr. Bob Gentry. Members absent were: Mr. Walt O'Riley and Mr. Damon Palmer. Staff members present were: Mr. Don F. Reitz, AICP, Secretary and Director of Planning; Mr. Greg Steuerwald, County Attorney; Mr. John Ayers, County Engineer; Mr. David Gaston, County Surveyor; Mrs. Julie Haan, Environmental Health Department; Mr. Tim Dombrosky, Senior Planner; Mrs. Tonya Cottrell; Flood Plain Manager; Mr. Nicholas Hufford, Planner; and Mrs. Joanne Garcia, Recording Secretary.

The meeting was opened with the Pledge of Allegiance. There were four (4) members present.

Mr. Whicker called for approval of the 2017 Hendricks County Plan Commission Meeting Schedule.

Mrs. Johnston made a motion to grant approval for the 2017 Meeting Schedule.

Ms. Tilton seconded the motion.

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

Mr. Whicker then called for approval of the November 9, 2016 meeting minutes.

Mrs. Johnston made a motion to grant approval for the November 9, 2016 meeting minutes.

Mrs. Tilton seconded the motion.

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

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

**TZA 02/16: AN AMENDMENT TO THE HENDRICKS COUNTY ZONING ORDINANCE BY AMENDING SUBSECTION 10.4 (D) CRITICAL FACILITY AND SUBSECTION 10.4 (E) (3) STANDARDS FOR IDENTIFIED FLOODWAYS** and referring to all of Hendricks County under the jurisdiction of the Hendricks County Area Plan Commission.

Mrs. Tonya Cottrell appeared and stated that the proposed amendment had been discussed at last month's meeting and was now before the members for a final vote. She stated the amendment was for the Critical Facility section and standards for identified floodways.

Mr. Whicker then asked for questions from the members and reminded them that their vote would be a recommendation to the Hendricks County Board of Commissioners.

Mrs. Cottrell stated that the amendment was taking the critical facilities such as fire stations and hospitals to higher standards.

There being no further discussion, 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.

Mr. Gentry made a motion to second a favorable recommendation to the Hendricks County Board of Commissioners for **TZA 02/16: An Amendment to the Hendricks County Zoning Ordinance by Amending Subsection 10.4(D) Critical Facility and Subsection 10.4 (D) (3) Standards for Identified Floodways**.

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Mrs. Tilton seconded the motion.

FOR – 4 –

AGAINST – 0 –

ABSTAINED – 0 –

This matter will be heard by the Hendricks County Commissioners on Tuesday, January 10, 2017 at 9:30 a.m. or thereafter.

The proposed amendment was as follows:

**AN AMENDMENT TO THE HENDRICKS COUNTY ZONING ORDINANCE BY  
AMENDING SUBSECTION 10.4(D) CRITICAL FACILITY AND SUBSECTION  
10.4(E)(3) STANDARDS FOR IDENTIFIED FLOODWAYS**

**WHEREAS**, the Board of County Commissioners of Hendricks County, Indiana adopted the Hendricks County Zoning Ordinance on August 12, 2008 and which became effective on October 1, 2008;

**WHEREAS**, the Hendricks County Area Plan Commission has recommended that the Zoning Ordinance be amended;

**WHEREAS**, the Hendricks County Area Plan Commission has conducted a public hearing on the proposed amendment (TZA 02/16) and voted to forward a favorable recommendation to the County Commissioners;

**WHEREAS**, the County Commissioners have received and reviewed the Plan Commission's report, have considered the Plan Commission's recommendations, and find that the adoption of the recommended amendment would promote the health, safety, and convenience of the people of Hendricks County; and

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
COMMISSIONERS OF HENDRICKS COUNTY, INDIANA AS FOLLOWS:**

10.4(D) Critical Facility. ~~Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.~~

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the 0.2 percent annual chance (500 year) floodplain. Construction of new critical facilities shall be permissible within the 0.2 percent annual chance floodplain if no feasible alternative site is available. Critical facilities constructed within the 0.2 percent annual chance floodplain shall have the lowest floor elevated to or above the 0.2 percent annual chance flood elevation at the site for the FBE + 3 feet, whichever is the highest. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or

above the 0.2 percent annual chance flood elevation or the BFE + 3 feet, whichever is the highest, shall be provided to all critical facilities to the extent possible.

10.4(E)

3. No new residential or non-residential buildings are allowed within identified floodways. In instances where there is a lack of information and detailed studies, the boundaries of the floodway shall be established on an individual basis for land development.

~~3~~ 4. No development shall be allowed which, acting along or in combination with existing or future development, will increase the regulatory flood more than 0.14 of (1) foot; and

~~4~~ 5. For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the FEMA revise the regulatory flood data.

**DPR 456/16 (PRIMARY): NEW WINCHESTER ANIMAL CLINIC;** a development plan review for parking improvements; 8.76 acres, Marion Township, S05-T15N-R2W, located on the north side of U.S. Highway 36, approximately 0.25 mile west of State Road 75. (Kruse Consulting, Inc.)

**DPR 456/16 (SECONDARY): NEW WINCHESTER ANIMAL CLINIC;** a development plan review for parking improvements; 8.76 acres, Marion Township, S05-T15N-R2W, located on the north side of U.S. Highway 36, approximately 0.25 mile west of State Road 75. (Kruse Consulting, Inc.)

Mr. Dale Kruse of Kruse Consulting, Inc. appeared on behalf of Dr. Maloney regarding the parking improvements proposed for his property along with a new loop drive to U.S. Highway 36. He explained that the loop drive was needed to accommodate those patients who needed to bring large animal trailers onto the property. He stated that they had submitted their plans to INDOT for this entrance and had received a permit. He pointed out the area of the driveway which was to be in stone and the area to be in asphalt pavement and as well as the concrete entrance area. He stated the veterinary clinic would be open Monday through Saturday with five (5) technicians and one (1) doctor on site. Mr. Kruse then discussed the inclusion of a detention area. He explained that the new access drive would also allow for farming equipment to access the back property farming field. He briefly reviewed the proposed landscaping plan and then reviewed the conditions and recommendations in staff's letter dated December 13, 2016. He explained how the discharge of all site drainage into the INDOT right-of-way would be agreeable with INDOT. He then discussed the staff comment regarding placement of a pipe under the field entrance at the northwest corner of the proposed parking lot. He explained how they would maintain a 1% slope and installing the culvert pipe. Mr. Ayers stated he was okay with their plan.

Mr. Whicker asked for further 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.

Mr. Gentry made a motion to grant primary approval for **DPR 456/16: New Winchester Animal Clinic (Primary)** subject to the conditions and recommendations in staff's letter dated December 13, 2016.

Mrs. Johnston seconded the motion.

FOR – 4 –

AGAINST – 0 –

ABSTAINED – 0 –

Mr. Gentry then made a motion to grant secondary approval for **DPR 456/16: New Winchester Animal Clinic (Secondary)** subject to the conditions and recommendations in staff's letter dated December 13, 2016.

Mrs. Johnston seconded the motion.

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

The conditions and recommendations were as follows:

**DRAINAGE CONDITIONS:**

Subject to Drainage Board approval and the conditions of the County Surveyor.

**STAFF RECOMMENDATIONS:**

1. The project engineer must provide an estimate of construction cost and post a performance guarantee prior to the issuance of an Improvement Location Permit.
2. INDOT must concur with the discharge of all site drainage into their right of way
3. Consideration should be given to the placement of a pipe under the field entrance at the northwest corner of the proposed parking lot.

**CONDITIONS OF APPROVAL:**

1. A properly executed County/Owner Inspection Agreement must be provided prior to secondary approval with all appropriate fees paid prior to the start of any construction.
2. This project is subject to the National Pollutant Discharge Elimination System (NPDES) General Permit covering storm water quality. Procedures there under are governed locally by the Hendricks County Stormwater Management Ordinance and corresponding Technical Standards Manual. An application, fees, construction plans, specifications and Stormwater Pollution Prevention Plan must be presented for approval to the Hendricks County Drainage Board separately from the application to the Hendricks County Area Plan Commission. Secondary Stormwater Approval for a development plan must be obtained from the Drainage Board prior to Secondary Approval by the Plan Commission. In addition, an Erosion Control Permit issued by the Hendricks County Surveyor's required for individual building lots prior to obtaining a Building Permit from the Planning and Building Department.
3. The Hendricks County Planning and Building Department must be notified at least seventy-two (72) hours prior to any site improvements being installed.
4. The applicant will have two (2) years from the date of approval to obtain an Improvement Location Permit. Should this two (2) year period elapse without the applicant having obtained the appropriate permit, the development plan approval will become null and void.
5. To obtain addresses, the applicant must submit a request to the Planning and Building Department. The Plat Address Information Sheet submitted with the plat application does not constitute a request for addresses.
6. Development plan approval does not constitute approval of signage unless such approval is expressly granted by the Plan Commission as part of this development plan. Signage review and approval is typically carried out as a permitting process separate from development plan approval.
7. No Improvement Location Permit/Building Permit shall be issued until any plat associated with Secondary Development Plan Review has been recorded.
8. A State Plan Release is also required for multifamily, residential and non-residential (commercial and industrial) projects. In no way will a Development Plan Review be construed as a substitute or a waiver for these other required permits.

**MAP 737/15 (SECONDARY): CROSSROADS COMMERCE PARK, BLOCKS A, B, C, D, D1, D2 & D3;** a 6-block commercial major subdivision, 214.39 acres, Liberty Township, S36-T14N-R1W, located southwest of the intersection of State Road 39 & Interstate 70, south of the TA Citgo Truck Stop on the west side of State Road 39. (Snelling Engineering PC)

Mr. Tim Dombrosky explained that the applicant had primary plat and development plan approvals. He stated that their secondary submissions had been continued since last year based on the fact that they were having trouble with their INDOT permit and that there was also a problem with their wastewater approval since they were not willing to pay the fee that was required. He then explained that based on the ordinance, continuances should not be granted longer than a total of ninety (90) days. He stated that in this case, their primary approvals were going to expire in the spring. Mr. Dombrosky stated that he had contacted the applicant's representative and was informed that the applicant did not have a prospective site tenant for their secondary as it stood. He stated if they were going to get a new tenant, they would have to change their plan anyway and so they were hanging on to this as a means of keeping something in the hopper. He informed them that they would either need to withdraw the application or he would recommend a denial. He stated he had not heard anything back on the matter. Mr. Dombrosky stated it was his recommendation that the matter be denied at this time. He stated that the primary would remain in effect until it expired in the spring. He stated he felt they would probably just come back with a new primary at that time.

Mr. Ayers asked how many continuances had been granted.

Mr. Dombrosky stated there had been four (4) ninety day continuances.

Mr. Gentry asked who the developer was.

Mr. Dombrosky replied Scannell Properties.

Mr. Whicker then called for a motion.

Mrs. Johnston made a motion to deny the secondary approval for **MAP 737/15: Crossroads Commercial Park, Blocks A, B, C, D, D1, D2 & D3 (Secondary)**.

Ms. Tilton seconded the motion.

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

The staff's memorandum was as follows:

The applicant is requesting another continuance from the secondary application filed in September of 2015. Per section 5.04 of the Plan Commission Rules and Procedures, no case should be granted more than 90 total days in continuances, unless unusual circumstances warrant it.

Staff recommends that the extension has exceeded a reasonable time frame, and the Secondary should be denied at this time.

The Primary approval is valid for two years after approval. The applicant can reapply for Secondary approval within that two year time frame.

Mr. Whicker stated that concluded the regular portion of the agenda. He stated there were a couple of discussion items as follows:

**State Road 39 Corridor Plan**

Mr. Whicker then stated that a full Plan Commission was not present at this evening's hearing. He stated, however, that they had received a letter from the County Commissioners on the matter indicating that they chose not to accept the Corridor Plan submitted to them for the reasons stated in the letter as follows:

1. The title of "Study" is deceiving because of the State Statute that governs this issue:
  - a. The timeline is rigid and the commitments are also rigid
  - b. Assumptions are made subsequently from information gathered in the "Study"
2. Attachment to the Comprehensive Plan also attaches it to the Thoroughfare Plan, which includes setback lines. This appears to be an aggravating issue for citizens attempting to sell real estate.
3. The Subdivision Control Ordinance is not by State Code relative to the Comprehensive Plan; however, Hendricks County's Subdivision Control Ordinance is relative to the Comprehensive Plan.
4. Most importantly, I (Bob Gentry), I have full faith in the Plan Commission both collectively and individually.

Mr. Whicker then indicated that there was also before them a draft letter put together by the Plan Commission Director, Don Reitz, as a response to the Commissioners' rejection letter. Mr. Whicker stated it was his understanding that it would take a majority vote of the Plan Commission members to allow him as President of the Plan Commission, to sign the letter and submit it to the County Commissioners. He stated again that at this meeting, there would not be enough members to vote on the matter. Mr. Whicker stated he would sign the letter and return it to Don if it was his decision and he asked the County Attorney, Greg Steuerwald, for his direction on the matter.

Mr. Steuerwald stated that Mr. Whicker would need a majority of the members to approve his signature on that response letter. He stated that the Plan Commission could accept the rejection or disapprove the rejection. He stated the Plan Commission had sixty (60) days from the date they received the Commissioners' rejection letter to respond. He stated that they could take action at the January meeting and be in compliance and that the statute also allowed them to request from the Commissioners' additional time to review the Plan. He repeated that they had at least through the January meeting to review it and make a decision.

Mr. Whicker then responded that he felt the matter should be continued to the January 10, 2017 meeting agenda. He stated that he would consult with all of the members on the matter and commented that he had personally put a lot of work into the Corridor Plan and felt it was a good plan. He stated that his principles dictated that the Plan as put forth was nothing more than a guide which did not change one piece of zoning and did nothing but provide the County with a guide in which to follow and deviate as necessary as the corridor developed. He stated a lot of effort was put into it and he would like to see it passed. He asked Mr. Gentry to speak to the concerns that he and the other Commissioners had on the plan as presented to them.

Mr. Gentry stated that one of the issues that he had was the rigidity of the concept. He stated that had he known there were state statutes that bound them by time, he would vote to accept it as a study. He stated, however, that the fact it stated it was a study was deceiving. He stated that many of the citizens who had contacted him mainly had a problem with the thoroughfare plan as the corridor plan would then become attached to the thoroughfare plan, which in turn, made it a part of the Comprehensive Plan. He stated it was pointed out to him that in different parts of the state code the Subdivision Control

Ordinance was not by state code relative to the Comprehensive plan but that Hendricks County's was. He added that he had full faith in the Hendricks County Plan Commission's decisions. He stated that it was pointed out to him by Mr. Palmer that each person had a different set of backgrounds, histories, passions, etc. that would help them make the right decisions. He stated that some of the citizens who contacted him felt that the plan would cause a problem with real estate decisions as to setback lines. He stated he felt that there were assumptions drawn from the Study. He stated for example, was there adequate trail and bike path facilities for the Corridor and the study had shown that there were not. He felt that was something that the people who rode the bikes did want; but that those that lived there did not necessarily want.

Mr. Whicker commented that those persons happened to be affected by it.

Mr. Gentry then discussed the trail development further and the impact it had on property owners who had issues with it. He stated the matter could be discussed further at the January meeting with hopefully a majority of the members present.

Mr. Whicker commented that Mr. Gentry may want to discuss the matter with the other Commissioners to determine if verbiage changes were needed or other changes that would be acceptable to the Commissioners so that the Corridor Plan could be expedited. He stated it was his opinion that the Plan or something close to it be put in place so that developers had a guideline as to the County's expectations and allow management of what came before the Plan Commission. He stated he felt they would be doing a disservice by not getting this in place in a timely manner.

Mr. Gentry then commented that when changes were made to the I-70 interchange approximately ten years ago that concessions were made to the property owners as to setbacks. He stated if the County wanted to compensate the people as to that, he felt it would be fair.

Mr. Whicker responded to keep in mind that by approval of that corridor study document, it was not delineating those setbacks. He stated that document was not changing anything but just providing a guideline. Mr. Whicker stated he felt from a financial standpoint, everyone would win with the Plan in place.

Mr. Dombrosky stated that the Corridor Plan would not change setbacks or thoroughfare widths and that those were already in place. He stated if there were issues with those, they needed to be addressed separately. He stated that the Corridor Plan did not even address them. He stated that if they needed to be addressed separately, then we should do that. He stated that the plan did not impact or change them.

Mr. Gentry stated that the Commissioners would be debating those matters more. Mr. Gentry stated he would place the matter for discussion on the Commissioner's December 27<sup>th</sup> agenda.

Mr. Dombrosky then asked Mr. Steuerwald if the Plan Commission disapproved of the Commissioners' rejection of the SR 39 Corridor Plan, would there be any options open at that point or would the same restrictions apply.

Mr. Steuerwald stated that on a literal reading, it would. He added if the Plan Commission disapproved the rejection and wanted to stick with their original action, then the action of the Commissioners on their original rejection stands only if confirmed and that on a rejection it was pretty narrowly focused or rigid. He stated that he would talk with Mr. Reitz and figure out the right way to proceed with an amendment if necessary.

Mr. Whicker commented that that shouldn't be difficult as long as all parties agreed.

Mr. Dombrosky stated it might take a rejection and then bringing it back to planning.

Mr. Steuerwald stated that might be true but he did not anticipate that happening.

Mr. Reitz then stated that the next item was on the **Special Event Ordinance**.

Planner, Nick Hufford, gave a short presentation on this matter. Mr. Hufford stated that they had been working on the Special Event Ordinance. He stated they wanted to give everyone a clear idea of what was happening. He stated they wanted to look at the zoning ordinance as that already guided uses. He stated they wanted to give neighbors and residents alike equal footing on what type of activities could happen and what needed further approval and this sometimes meant temporary uses that went beyond what a typical residence would allow. He stated they were basically trying to set up a process that allowed all parties to know what the process was and to mitigate to allow events. He displayed a table and explained what was allowed in the zoning district and what required a special exception. He stated that special exceptions already go through the Board of Zoning Appeals and Special Events that are special exceptions in the zoning ordinance go through the Plan Commission due to their experience with development plans. He then discussed how to regulate these events on objective criteria and he gave examples. He further explained what they were working toward in presenting a final draft and asked the members for their feedback on what they had presented so far.

Mr. Whicker then commented that he felt they were looking for some kind of guidance on the draft.

Mr. Hufford stated yes.

Mr. Whicker stated from his perspective he felt they were on the right track. He stated it was fairly clear and not too restrictive and was providing a balance and good guide for those who may be in need of that type of permit. He stated that his position and he felt they had hit it very well, was to not be too restrictive.

Mr. Gentry then commented that for example in the case of a moto cross type of event, they would look at how much security and medical capability was needed.

Mr. Hufford stated yes and he just wanted to identify what types would come to the Plan Commission and needed to meet a higher set of standards for approval.

Mr. Gentry then commented on needing to have set out what steps to be followed.

Mr. Hufford agreed and that would be the next step to figure out what was going to be required for each process and if it came before the Plan Commission, he thought that maybe each department might needed to sign off.

Mr. Whicker added to be careful not to require too restrictive of a document to be able to provide approvals or denials.

Mr. Dombrosky stated that there were a lot of categories and levers to go up or down on but that the basic dividing principle was whether or not the use was allowed in that category. He stated it was a temporary use but it was different in that we did not want to allow a use in a district where it was not permitted.

Mr. Gentry stated he wanted to refer the staff for help from the Fountain County Commissioners and Attica Mayor who had been through this process.

Mr. Hufford stated that he had been in touch and that they did not refer him to any specific ordinance that had been written by them.

Mr. Gentry stated that the reason they did not have to write any specific ordinance was because they held the events in an existing gravel pit.



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Mrs. Johnston then added that not having been to one of these events, she specifically visited a moto cross event and stated that the event was well organized and did not generate any more dust than was created by plowing a field. She stated she saw that they had a well-defined entrance and exit and she also went on one of the trails and witnessed the efforts made to protect the creeks.

Mr. Whicker stated he felt that the staff and Plan Commission had handled the past motocross event permit well even though they were not fully prepared for it.

There was a consensus among the members that the staff was on the right track and should proceed further.

Mr. Whicker then asked for any further business before the members and there being none, Mr. Whicker then confirmed that with Mr. Sisk's departure from the Commission, they would have a new member, Tim Whicker.

The meeting was adjourned at 7:19 p.m.

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Don F. Reitz, AICP, Secretary