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A meeting of the Hendricks County Area Plan Commission was held on Tuesday, April 11, 2017 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. Damon Palmer, Vice-President; Mrs. Sonnie Johnston; Ms. Angela Tilton; Mr. Walt O'Riley; Mr. Tim Whicker; and Mr. Bob Gentry. Staff members present were: Mr. Don F. Reitz, AICP, Secretary and Director of Planning; Mr. Graham Youngs, County Attorney Representative; Mr. John Ayers, County Engineer; Mr. David Gaston, County Surveyor; Mr. Tim Dombrosky, Senior Planner; and Mrs. Joanne Garcia, Recording Secretary.

The meeting was opened with the Pledge of Allegiance. There were seven (7) members present.

Mr. Brad Whicker then called for a motion to approve the March 27, 2017 Special Plan Commission meeting minutes.

Mrs. Johnston then made a motion to approve the March 27, 2017 meeting minutes.

Ms. Tilton seconded the motion with Mr. Brad Whicker and Mr. Tim Whicker abstaining.

FOR – 5 – AGAINST – 0 – ABSTAINED – 2 –

Mr. Brad Whicker then thanked Mr. Don Reitz, Planning Director, for his service to the County and wished him the best on his retirement on April 28, 2017. Mr. Whicker also announced that the Search Committee had chosen the current Senior Planner, Mr. Tim Dombrosky, to fill the position of Planning Director.

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

ZA 392/17 (AMENDMENT TO ZONING COMMITMENTS): DONALD R. WHITE/AACME AUTO PARTS & TOWING; an amendment to previously approved zoning commitments, 18.1 acres, Franklin Township S13-T14N-R2W, located at the northwest quadrant of the Intersection of U.S. Highway 40 and County Road 300 West, more commonly known as 3110 West U.S. Highway 40, Clayton. (Comer Law Office)

Mrs. Amy Comer Elliott of the Comer Law Office appeared on behalf of Mr. Donald White, who was also present. Mrs. Comer gave a brief history of the site and the previous hearings that had been held in regard to it. She explained the problems that had arisen with the previous owners, the Hannell's. She stated that the previous use of the property had been a junkyard and it had received many violations. She stated that Mr. White had to do reclamation when he purchased the property to bring it into compliance. She stated that he had to remove several old buildings and he had also remodeled and repaired an existing house on the property. She stated that Mr. White had upgraded the property from a junkyard and followed environmental laws to establish an auto salvaging operation with sales of auto parts. She stated that the zoning of the property had also been brought into compliance in 2008 and now had 18 acres zoned MI/Major Industrial. She stated at that time there were some limitations placed on the property with one of those being that no more than 200 autos be on the property at any one time. She stated those had been good starting points for a new operation, cleaning up the property and making the violations go away. She stated, however, that since then the business had been getting better. She stated that one of the commitments placed on the property had been for landscaping and mounding to be installed and maintained. She stated that had been done and over the years vegetation had died and it had become apparent that to better shield the business operation from the surrounding agricultural/residential properties, a fence would be a better option. She stated that the staff had requested that it be an eight (8) foot wood privacy fence and she stated along with that they were requesting that there be no limit placed on the actual number of cars stored on the property. She stated that the staff had given their approval for no actual limit on the number of cars. She stated that since the property sloped to the north from U.S. Highway 40, the cars would not be visible from that highway. She stated that the members should have in their packets a copy of the previously approved commitments

that were recorded in 2008 along with the proposed commitments. She stated that they would notice some remarks as "no longer applicable" which referred to buildings that had been removed and other things that had been brought into compliance. She added in conclusion that they were requesting to remove the landscaping, install an eight (8) foot privacy fence and removal of the limitation on the number of cars onsite. She added that due to the MI zoning, there were substantial setbacks and also about four acres of woods on the property. She stated that with the unlimited number of vehicles on site, it would still meet the ordinance for lot coverage.

Mr. Whicker then called for questions or comments from the members.

Mr. Gentry stated that the commitments for 2008 had not been included in their packets.

Mr. Dombrosky responded that the actual commitments from 2008 had not been included in the packets and that he had enumerated in the staff letter what had been different from the old commitments.

Mr. O'Riley asked if the business proposed for the site was auto salvage.

Mrs. Elliott responded yes and that the use would not change at all.

Mr. Dombrosky added to clarify that the rezoning request was just for the amended commitments and that it would continue to be MI/Major Industrial and the commitments were part of that zoning amendment when it was made.

Mr. Whicker then opened the public hearing portion of the meeting.

Mr. Eric Oliver, an attorney from Danville, representing James & Mary Musick of 7408 South County Road 300 West, appeared. He submitted an exhibit which was entered into the record as Respondent's Exhibit "A," which included proposed findings of fact and conclusions of law and affidavits from his clients. He stated that they were objecting to the changes in the recorded commitments. He stated they were objecting because it did not fit the Comprehensive Plan in that while the property was zoned industrial the surrounding area was mostly agricultural. He stated that the next issue pertained to their Exhibit 8 which were pictures of the property taken by his clients. He stated that the pictures showed that the property was clearly visible by his clients from their property on U.S. Highway 40 even though the commitments were that landscaping and mounding were to be maintained. He stated that Aacme had not complied with the original commitments and his question was why the Plan Commission would grant Mr. White more opportunities to further not comply with his commitments. He then referred to his Exhibits 1 and 2, the Affidavits which listed his client's concerns. He stated that one of the concerns had to do with Mr. White's request for the unlimited storage of autos on the site and if the property did not comply with the Comprehensive Plan, why would they want to increase his salvage. Mr. Oliver also stated that after checking public records, Mr. White was not current on his property taxes and that the Aacme Corporation was not currently up to date with its Secretary of State filing. He then referred to his Exhibit #3 which was a list of licensed salvage dealers and that Mr. White nor Aacme was listed and that he was required to be a licensed salvage dealer. He stated that a salvage yard was a special exception under the zoning ordinance in the MI District and thus the reason for the commitments. He then discussed their Exhibit #7 which was an article from 2008 in the Hendricks County Flyer regarding the property and that after being rezoned, the commitments were to insure that surrounding properties would not be able to see the salvage operation. He stated currently that was not the case. He concluded by asking the Plan Commission to vote against this amendment as the commitments were not being met and that surrounding property values would continue to decrease if the salvage operation increased and that it did not meet the Comprehensive Plan. He added that his clients had also witnessed demolition being carried out on Saturdays and Sundays.

Mr. Ronald Keen, 3123 West U.S. Highway 40, appeared and stated his property was directly across from Aacme. He submitted site photocopies entered into record as Respondent's Exhibit "B." He stated that Mr. White had put in trees and shrubs over the years and that they had failed to grow. He

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added that every morning, he and his wife were able to look out and see the salvaged cars on Mr. White's property as well as the operations. He stated that they would very much like to stop being able to see the cars and the operations. He also stated that they would like to stop listening to the comings and goings of the cars on the property and would appreciate some enforcement to stop this.

Mr. John Lietzman of 225 West U.S. Highway 40 appeared and stated he owned a farm nearby the Aacme site. He stated his first concern about the business was the release of pollutants downstream. He stated that Mr. White had taken him onsite to show how he would prevent this and it had met with Mr. Lietzman's approval. He stated that the previous owner's piles of refuse were a lot worse to look at than Mr. White's autos.

Mr. Oliver added that if the Plan Commission elected to approve this amendment, his clients did not object to the installation of a fence instead of the earthen mounds.

There being no one else signed up to be heard, Mr. Whicker closed the public hearing and asked for closing remarks from the applicants.

Mr. Donald White of 3110 West U.S. Highway 40 appeared to address some of the concerns. He explained how many times he had attempted to install the landscaping and how many times it had not thrived. He stated that currently he had replanted the trees. He stated he would install a six to eight foot fence instead of continuing to try and maintain the landscaping.

Mrs. Elliott then also addressed the concerns expressed by the remonstrators. She stated she could not address the issue of whether or not Mr. White's taxes were paid in full. She stated that Mr. White's business was an administratively operational corporation and that he was required to file a yearly Secretary of State entity report along with a filing fee. She added that it was not unusual for self-employed businesses to forget their renewals and it was a simple matter to bring that up-to-date. She then addressed the matter of the salvage license whereby Mr. White needed to get a sign off from the County of Hendricks that he was in compliance with the zoning requirements. She stated that because of some complications with IDEM due to a lot of old tires left on the property by the former owners, IDEM kept indicating they were going to take care of this and had applied for grants to get the funds to take care of the tire removal. She stated this delay had been occurring since 2008. She added that now the grants had dried up and the work had never been done. She stated that Mr. White had hired out the work of cutting up the tires and had now completed the cutting up of about half of the approximately 3,000 tires left on the property. Mrs. Elliott added that the County Environmental Health Department had been aware of this for the past eight years.

Mr. Dombrosky stated in conversation with Julie Haan, the Environmental Health Director, Mrs. Elliott's statements were accurate.

Mr. White added that he had photos available to show the members, if necessary.

Mrs. Elliott went on to say that they could all agree that the landscaping had not worked. She stated she felt it would be best to replace the landscaping with a fence to provide the neighbors adequate screening and that with an eight (8) foot fence, it would not be possible to see the salvaged autos on the property. She stated that with the screening an eight (8) foot fence would provide, there would be no reason to continue with the restriction on the number of cars stored on the site. She stated that Mr. White would not exceed the lot coverage requirement of the ordinance.

Mr. Whicker stated he had some general comments. He stated he believed that no one present particularly liked the present use of the property, but the use was present prior to Mr. White taking it over. He stated Mr. White was operating under a special exception and he had made some incremental improvements. He stated that he had observed the attempts to do landscaping and the subsequent die off of that landscaping. He stated what was before them was not necessarily going to change a lot and that Mr. White was not present to change anything other than to ask to be allowed to store more salvaged

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cars on the property and in exchange was offering to put up a fence of some conceptual construction. He asked the staff what the approval process of the fence would be and the quality of construction that would go into that.

Mr. Dombrosky replied if the Plan Commission gave its approval at this meeting, Mr. White could construct an eight (8) foot fence to the standards that were currently in our zoning ordinance.

Mr. Whicker asked what the fencing standards were.

Mr. Dombrosky replied that the finished side of the fence had to face outward as required for any other fence constructed in the county.

Mr. Whicker then added that he was not sure he felt comfortable giving Mr. White the ability to store an unlimited number of salvaged vehicles. He stated he felt the compromise of a fence might provide some level of appeasement and particularly to the property owners across the street.

Mrs. Johnston asked if the fence would be installed around the entire property.

Mr. Dombrosky replied that they had discussed just across the front of the property as there were existing remnants of fences around the rest of the property. He stated that the members could require fencing as they saw fit. He then addressed the lot coverage by stating that the lot coverage in an MI district was sixty (60) percent. He stated that sixty (60) percent of eighteen (18) acres was a lot. He stated to give a comparison, coverage in an AGR district was set at thirty-five (35) percent.

Mr. Tim Whicker asked what the current coverage on the property was now.

Mr. Dombrosky estimated about thirty (30) percent.

Mr. Whicker reminded the members that their vote tonight would be a recommendation to the Board of County Commissioners.

Mr. Gentry then asked about approval of the drainage on the property.

Mr. Gaston responded that the original drainage approval at the southwest part of the property had a mound designed and on the east side of that a dry detention basin. He stated that there was an outlet pipe running in a southwesterly direction that outletted not on the property line but near the property line. He stated he had talked to the property owner to the west and would need to go out to take a look as it was creating some channelizing through the field. He stated if you looked at the contours, there used to be a natural drainageway through there but it was not channelized and normally that was not allowed. He stated he was not sure how the drainage for the property had been approved. Mr. Gaston stated, therefore, that he needed to visit the site to observe the current drainage conditions.

Mr. Whicker asked if the recommendation made at the meeting should include any drainage conditions.

Mr. Gaston stated at this point he was not sure what to do because the drainage was built by the previous owner as it was approved. He stated that anyone who came before the Drainage Board would be informed that they could not negatively impact upstream or downstream drainage. He stated that according to some of the pictures on Mr. White's property, it looked like it might be negatively impacting.

Mr. O'Riley then asked if they should continue this matter to get more information on the drainage.

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Mr. Gaston replied that whatever recommendation was made on the rezoning, would not affect the drainage conditions presently. He stated that his office would need to check the drainage regardless of any decision made tonight on the zoning conditions.

Mr. Whicker then called for further questions or comments of the petitioner.

Mr. Palmer asked what the total number of cars currently existing on the property was.

Mrs. Elliott estimated approximately 600 vehicles. She stated the increase in vehicles had only occurred in the last eight months. Mrs. Elliott asked Mr. White to comment.

Mr. White explained that he thought the commitment for number of cars was per acre.

Mrs. Elliott added that he was not anywhere near 200 cars per acre.

Mr. White replied that he had not known what the business would become and that now the demand for parts had increased, he found himself overwhelmed.

Mrs. Elliott stated that the point being that there were more cars stored on the site than was allowed in the ordinance and she was not aware that anyone had complained about that fact. She stated she felt that might be because the property sloped downward to the north and the vehicles were out of the line of sight and would be further screened by the addition of the discussed fence.

Mr. Whicker asked what the end game for the cars was. He stated he thought he remembered from the last approval that Mr. White intended to move some of the cars to his other location for crushing.

Mr. White responded that they were not actually running the salvage part of the business but were just selling a lot of auto parts.

Mr. Whicker stated that it sounded like the autos would be stored on site for an indefinite amount of time.

Mr. White added that he would not be stacking the cars because of insurance concerns and because he felt it would be more of an eyesore for the neighbors.

Mr. Whicker then estimated that the amount of cars that could possibly be stored would be around 1,200.

Mr. White stated that could be correct but that he did not believe he had enough room for 1,200.

Mr. O'Riley commented that between cleaning the property up and constructing the fencing, that would probably be pretty positive from looking at the photos submitted.

Mrs. Elliott stated they had not been provided a copy of those photos and she received a copy from Mr. Whicker.

There was a discussion on what an estimate of the number of cars per acre could be reasonably stored on the property.

Mrs. Elliott commented that the fencing would definitely take care of the sight problems.

Mr. White added that he could also place the fencing on top of the mounding which would bring it up to fourteen (14) feet of screening coverage.

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Mr. Gentry then asked Mrs. Elliott and Mr. White to comment on the remnants of old fencing, galvanized metal and mulberry trees and whether or not they planned to clear that up and replace with new fencing.

Mr. White commented that the galvanized metal was the original fence and that he was planning on replacing where it had fallen down.

Mr. Whicker then added that he felt the members should be ready to make a recommendation. He stated that they could modify the restrictions and place a maximum number on the stored cars or they could send it to the Commissioners with an unfavorable recommendation.

Mr. Palmer added that it sounded like the neighbors were in favor of a fence. He stated he did not think they could ignore the fact that the surrounding property zoning was at a requirement of 35% lot coverage for the AGR zoning.

Mr. Dombrosky stated that the zoning for the property was changed to be held to different standards than the AGR district and also that Mr. White had not filed for a development plan review because the use was existing.

Mr. Palmer added that he was just considering if they could make the coverage consistent with the AGR zoning requirements which would naturally limit the number of cars.

Mr. Whicker asked if that was easier or more difficult to enforce.

Mr. Dombrosky responded that it would be hard to do.

Mr. Palmer added that there was not a great solution but that the fence seemed to be a positive one among the neighbors.

Mr. Whicker stated he was in agreement and asked for a maximum number of cars to be allowed. He stated since there were 600 cars onsite now, it could be capped at 1,200 along with the fencing requirement.

Mr. Dombrosky stated that sixty (60) percent of eighteen (18) acres was around ten (10) acres. He stated that 2,200 cars would be the approximate number stored on ten acres along with the aisles and accessory buildings and whatever else would be required.

One of the audience remonstrators commented that he was in favor of placing the fence on top of the berm.

After some discussion, Mr. Palmer stated that they would be approving about one-half of the total number of cars that could be stored or about fifty-four (54) percent.

Mr. White stated he was agreeable to the fence on the berm and agreed to fencing on three sides of the property along with the maximum number of cars to be stored at 1,200.

Mr. Palmer then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners for the amendment to the commitments for **ZA 392/17: AACME Auto Parts & Towing** and subject to the Development Commitment Recording Form to be recorded within thirty (30) days of approval by the Hendricks County Board of Commissioners with the following conditions:

1. Commitment #12: No more than twelve hundred (1,200) cumulative cars for impound or demolition shall be permitted on the property at any one time; and
2. Commitment #20: A wood privacy fence that is eight feet (8') in height shall be installed on top of the existing berm along the southern boundary line with the

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exception of the driveway and gated access area. A wood privacy fence that is eight (8) feet in height shall be installed along the eastern and western boundary lines of the MI zoned property with the exception areas with existing fence of at least eight (8) feet in height.

Mr. O'Riley seconded the motion.

FOR – 7-

AGAINST – 0 –

ABSTAINED – 0 –

Mr. Whicker then asked Mr. White to work with the staff on solutions for the drainage problems on the site.

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, April 25, 2017 at 9:00 a.m. or thereafter.

The amended Findings of Fact/Law were as follows:

Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 392/17: Acme Auto Parts & Towing

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 MI/Major Industrial District to MI/ Major Industrial District with amended commitments. 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 not substantially comply with the recommendations of the Hendricks County Comprehensive Plan. However the use of the site for salvage operations is well established and longstanding, and there is no practical means of converting the site to a compatible use. Further, having the site more effectively buffered as a consequence of approving this rezoning will make the use more compatible.
- (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. The historical uses on the site have all been industrial in character. The modification of the commitments will be beneficial to the nature of the area and the approved uses on this site.
- (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. Industrial use at this location is established and longstanding. The rezoning will allow better screening of industrial activities. The number of cars on the lot should not be noticeable and will not affect adjacent properties.
- (4) The conservation of property values throughout the jurisdiction;
The Commission finds that the proposal does conserve property values in the jurisdiction as it is consistent with the established use on this site. Moreover, better screening as a consequence of this rezoning will have a beneficial influence on property values.
- (5) Responsible development and growth.
The Commission finds that the proposal does represent responsible development and growth. Industrial uses at this location are well established. Screening through this rezoning will have a direct and beneficial effect on the area. This will ensure maximum compatibility with surrounding land uses.

Also subject to the Development Commitment Recording Form to be recorded within 30 days of approval by the Hendricks County Board of Commissioners with the following changes;

1. Commitment # 12: No more than twelve hundred (1,200) cumulative cars for impound or demolition shall be permitted on the property at any one time.
2. Commitment #20: A wood privacy fence that is eight feet (8') in height shall be installed on top of the existing berm along the southern boundary line with the exception of the driveway and gated access area. A wood privacy fence that is eight feet (8') in height shall be installed along the eastern and western boundary lines of the MI zoned property with the exception areas with existing fence of at least eight feet (8') in height.

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DPR 458/17 (PRIMARY & SECONDARY): WINGS, ETC.; a development plan review to establish a new restaurant, 1.25 acres, Guilford Township, S20-T14N-R2E, located on the northeast side of Upland Way and southeast of the intersection of State Road 67 and Enterprise Drive, more commonly known as Lot 134, Heartland Crossing Business Park, Section 3. (Holloway Engineering & Surveying)

Mr. Whicker stated that the above applicant had requested a continuance to the next meeting and he called for a motion to continue.

Mrs. Johnston made a motion to grant a thirty (30) day continuance for **DPR 458/17 (Primary & Secondary): Wings, Etc.** to the May 9, 2017 meeting.

Mr. Gentry seconded the motion.

FOR – 7 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Dombrosky stated that this would be their second continuance and they would be allowed no more than three. The members were in agreement.

TZA 01/17 (AMENDED): An Amendment to the Hendricks County Zoning Ordinance by Amending Chapter 7.13 (D) Special Event, (E) Other; Chapter 12.16, and the Plan Commission Fee Schedule and referring to all of Hendricks County under the jurisdiction of the Hendricks County Area Plan Commission.

Mr. Dombrosky gave a review of previous meetings held on this matter. He stated that after the last special meeting held on Monday, March 27th, Commissioner Whetstone had a concern that events which currently seek permission from the Board of Commissioners would not be allowed to do that. He stated that the staff agreed with this and wanted to make it clear in the ordinance that that change be made, which had been done. He stated that they had then brought it back to the Commissioners today and another issue came up that the Board of Commissioners wanted to make sure that citizens had adequate relief from decisions made by the Plan Commission on this specific section of our ordinance and that they could appeal to the Board of Commissioners a decision made by the Plan Commission on Special Events. He stated that they had spoken with the County Attorney, Greg Steuerwald, who was not present at this meeting, who felt that concern could be accomplished by adding the sentence added to the current copy of the ordinance before the members. He stated he had highlighted the new numbers added which were #5 & #6. He stated that the Board of Commissioners made those amendments unanimously and per the state statute if the Plan Commission members all agreed to this amendment, the ordinance would be adopted at this meeting. He stated it was like they got to see what the Plan Commission recommended and then they recommended a change back to the Plan Commission.

Mr. Palmer asked if the Commissioners had offered to hold public hearings.

Mr. Dombrosky stated he was not as familiar with the Commissioner's format but that it would be a public meeting but not a public hearing. He stated their idea for this was expediency in that if there was an issue it could go quickly to the Board of Commissioners and if there were advertising involved, it would obviously take longer. He stated they, therefore, did not express that they wanted it to be a public hearing.

Mr. Palmer stated that Mr. Gentry might be able to provide some insight to why the Commissioners wanted to control this Special Event ordinance. Mr. Palmer stated that the public hearing would be held by the Plan Commission on matters of Special Events, which he felt was so important because there was a potential impact to neighbors. He stated that the Plan Commission had the job of listening to the public and taking those concerns and putting them into the recommendation. He stated that the Commissioners did not do this unless they were willing to open a public hearing on a Special Event. Mr. Palmer stated he did not know if the Commissioners took the Plan Commission's meeting

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notes or minutes into consideration and understood what those real concerns were. He added that he wanted to be honest and up front that he had some concerns with the proposal presented to them by the Commissioners for this amendment.

Mr. Whicker responded that he felt Mr. Palmer's comments were valid and well said. He added to Mr. Gentry that in all due respect, the Commissioners had representation on the Plan Commission through Mr. Gentry. He stated it appeared to him that the Commissioners were trying to micro manage the process.

Mr. Gentry responded that personally he did not think that was the desire of the Commissioners. Mr. Gentry stated he thought he had talked with the staff about the Commissioners taking public comments at their meetings on Special Events.

Mr. Dombrosky stated that yes that had been mentioned at the Commissioners' meeting today and that if there were remonstrators present on a matter, they would listen to them.

Mr. Gentry stated that he had always encouraged listening to anyone who wanted to express concerns at the Commissioners' meetings.

Mr. Brad Whicker added a thought about what was going to happen in a few years when there was a whole new body of Commissioners.

Mr. Gentry asked Mr. Dombrosky if the Board of Zoning Appeals was going to be involved in the Special Event process.

Mr. Dombrosky stated he had been unclear about that. He stated that the Board of Zoning Appeals was there for the administrative process since as part of the special event approval, an applicant could go to administrative or Plan Commission review and if they were turned down by the staff, they could appeal to the Board of Zoning Appeals.

Mr. Gentry added that he would be agreeable to either process. He stated that presently there was nothing in the ordinance to address the special events and something was needed. He stated that he would be in favor of the Commissioners being able to place other restrictions on a special event that was recommended for approval by the Plan Commission. He stated he would try to take the spirit of the Plan Commission's recommendations into consideration. He added if the Plan Commission was not agreeable to that, he did not have an objection.

Mr. Dombrosky then added that Commissioner Phyllis Palmer did say at today's meeting that she did not want to hurt their relationship with the Plan Commission over this matter.

Mr. Gentry added that he wished the Special Event amendment to the Ordinance had been adopted when the last controversial event had been on the table because the Commissioners could have told them what needed to be done correctly in order for the event to go forward.

Mr. Palmer added that if the Special Event Ordinance had been in place, the Plan Commission could have placed those conditions on the applicant.

Mr. Brad Whicker stated that he was comfortable with the decisions made by the current Commissioners but was not, however, comfortable with the possible Board that would be in office in another seven years or so and decisions that were made now were not easily undone then. He stated the body of the Plan Commission was present for a reason and had the authority.

Mr. Palmer stated he shared that comfort level but that they could be placing undue burden on the public because if the Commissioners chose to hold a public hearing, they would be asking people to come to two public hearings to voice their concerns and he did not think that was necessary. He stated

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he felt the Commissioners were making a bit of a power grab and he felt the Plan Commission Board could adequately represent the citizens and the needs of the County with regard to this.

Mr. O'Riley then commented as to events that occurred in county owned facilities if the Commissioners wanted to place restrictions on those events, that would make more sense to him rather than allowing them to have total control over all events.

Mr. Dombrosky responded that if the Plan Commission denied a special event to be held on privately owned property, the applicant could go seek permission to use public lands from the Commissioners.

Mr. Gentry then asked if #6 was not included in the ordinance, then would the Board of Zoning Appeals be a proper body for appeal.

Mr. Dombrosky stated no and that it would go through an administrative decision as the BZA did not have authority over the Plan Commission. Mr. Dombrosky added that he had never heard of a legislative body having the authority to change a plan commission's decision and that there was not a precedent for that.

Mr. Brad Whicker stated however that the Commissioners did have executive power.

Mr. Dombrosky stated yes, in general.

Mr. Tim Whicker added that Mr. Palmer's comments were correct in that it made it difficult when you had one body trumping another's decision and he felt that did make for a difficult relationship.

Mr. Gentry asked if there were any way to legally provide an appeals process to a different body.

Mr. Dombrosky responded that if someone claimed to be harmed by a Plan Commission's decision, they could appeal through the circuit court.

Mr. Palmer added that the Plan Commission was a seven member board that was very diverse. He stated it was designed to have representation from several different bodies or groups.

Mr. O'Riley asked what would happen if #6 were removed and #5 was left in.

Mr. Dombrosky added that what he felt Mr. Whetstone said was that he wanted the public to have a remedy or an outlet.

Mr. Brad Whicker added that it probably sounded good on the surface.

Mr. Dombrosky stated it was a good point made that if they were denied by the Plan Commission, they could seek permission to use public lands from the Board of Commissioners and this could be seen as a remedy or they could appeal through the circuit court.

After some brief discussions, Mr. Brad Whicker stated he thought there were two options. He stated that they could adopt the amendment as it was presented; but that they did not have legislative authority to alter it to our satisfaction. He stated that they could ultimately not adopt it and that would send a clear message.

Mr. Dombrosky stated that the Plan Commission could either agree with the Commissioners' amendments or disagree.

Mr. O'Riley added then they could not send another recommendation back.

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Mr. Dombrosky stated they could provide comments as to why they disagreed. He stated they would then have to either reconfirm or amend it again. He stated, however, that would cause another month's delay.

Mrs. Tilton commented that they were still operating without a clear ordinance on this matter.

Mr. Gentry added that he did agree that he always wanted the general public to have an appeal process and maybe this was not the way to do it.

Mr. Reitz added that a Plan Commission decision could always be appealed through the courts.

Mrs. Johnston stated that she was not in agreement with #6 and other members stated the same concern.

Mr. Palmer then made a motion to not accept the ordinance in the form as sent down by the Board of Commissioners.

Mr. O'Riley seconded the motion.

Mr. Dombrosky asked if they were objecting because specifically of #6.

The members agreed that they wanted that clause removed.

Mr. Palmer stated that was part of his motion.

Mr. O'Riley again seconded that motion.

Mr. Gentry added that he could not agree with that motion as he did not feel the general public should have to go to court to appeal the Plan Commission's decision.

Mr. Palmer added that he had a concern with a body trumping another body without a public hearing.

Mr. Brad Whicker then called for the vote as follows:

FOR – 6 – AGAINST – 1 – ABSTAINED – 0 –

Motion passed

Mr. Brad Whicker – yes
Mr. Damon Palmer – yes
Mrs. Sonnie Johnston – yes
Ms. Angie Tilton – yes
Mr. Walt O'Riley – yes
Mr. Tim Whicker – yes
Mr. Bob Gentry – no

The proposed amended Ordinance as submitted by Commissioners:

Ordinance No. 2017-15

An Amendment to the Hendricks County Zoning Ordinance by Amending Chapter 7.13 (D) Special Event, (E) Other; Chapter 12.16, and the Plan Commission Fee Schedule

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

Whereas, the Hendricks County Area Plan Commission has recommended that the Fee Schedule be amended and the Zoning Ordinance be amended as to Chapter 7.13(D) Special Events; Chapter 12.16;

Whereas, the Hendricks County Area Plan Commission has conducted a public hearing on the proposed amendment TZA 01-17 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:

7.13 TEMPORARY USE AND STRUCTURE STANDARDS

Remove:

D. SPECIAL EVENT. Temporary sales for special events are required to obtain an Improvement Location Permit. See Section 12.10 Improvement Location Permit.

1. General Requirements

- a. A parking lot designated for a special event shall be permitted
- b. Temporary signs in connection with special events shall conform to the temporary sign requirements of Section Chapter 9: Sign Standards.

2. The sale of Christmas Trees, outdoor tent theater, sale of seasonal fruits and vegetables from roadside stands, and tent sales shall be permitted for a maximum time of sixty (60) days and no more than 4 events per year.

3. Festivals, bazaars, carnivals, and similar temporary uses shall be permitted for a maximum of ten (10) days.

E. Other. Other similar uses deemed temporary by the Plan Commission and attached with such time period, conditions, and safeguards as the Commission may deem necessary.

Add:

D. SPECIAL EVENT. Definition. A Special Event is an activity, not incidental to the primary use, conducted outside over the course of an established 180 day period. An activity conducted for more than the established 180 day period in a 12 month span shall be considered permanent.

1. An event with components only in the 'By Right Permission' line of Table 7.19 are permitted to hold the event.
2. An event with at least one (1) component in the 'Administrative Review' line of Table 7.19 must follow the process outlined in **Section 12.16 Special Event Review Process**.
3. An event with at least one (1) component in the 'Plan Commission Review' line of Table 7.19 must follow the process outlined in **Section 12.16 Special Event Review Process**.
4. The Planning and Building Director can require any proposal to submit to either review process as they deem it necessary.
5. Exempt events. Events that occur at County owned facilities and/or take place on County right-of way (public events, marathons, and other similar activities) shall be exempt from this Ordinance and shall obtain permission from the Board of Commissioners.
6. A decision made under this section by the Plan Commission or Board of Zoning Appeals may be appealed to the Hendricks County Commissioners.

CHAPTER 12: PETITIONS, PERMITS, AND PROCEDURES

Add:

12.16 SPECIAL EVENT REVIEW PROCESS

- A. Purpose.** The purpose of this chapter is to identify a procedure for the review and approval of Special Events
- B. Applicability.** See Section Chapter 7.13(D) Special Events
- C. By Right Permission.** All activities with no components exceeding the 'By Right Permission' line of Table 7.19 are permitted to hold the event without any additional review.

Table 7.19: Special Event Processes and Components						
		Components				
		Zoning District	Hours of Operation	Number of Vendors	Consecutive Days	Total Days in 180 Day Period
Processes	By Right Permission	Permitted	Sun-Thurs 7AM-8PM, Fri & Sat 7AM-10PM	<6	1 or 2	<10
	Administrative Review	Permitted	Sun-Thurs 7AM-9PM, Fri & Sat 7AM-11PM	6-24	More than 2	10-120
	Plan Commission Review	Special Exception or Not permitted	Hours beyond Administrative Review	24<	-	121-180

D. Application Requirements. A complete submittal will include the following items:

1. One (1) Application form
 - a. This application form, when completed will contain general information including primary contact information, the name and location of the event, identification of all the property owners and event operators, the parcel number(s), existing zoning district, and must be signed by the property owner(s) or include written authorization for an agent.
2. One (1) letter of intent. This letter shall describe, in sufficient detail, the proposed event and all activities associated with the event.
3. One (1) Plot Plan which shall contain:
 - a. The location of all existing buildings and features
 - b. The location of all proposed buildings and features
 - c. Existing streets and alleys adjoining or within the lot
 - d. The distance between activities and property lines
 - e. The number and location of off-street parking and loading spaces
 - f. The type and source of sewage disposal, and type and source of water supply
 - g. Such matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance
 - h. The size, type, and location of all temporary signage
4. Any necessary approval by local agencies which shall be included on their official forms and signed by the proper authority. These approvals may include, but are not limited to the following:
 - a. Emergency Service Providers
 - b. County Health Department
 - c. County Highway Department
 - d. Hendricks County Drainage Board
 - e. County Clean Water Department
 - f. Incorporated towns

5. Application Fee. The Special Event application must be accompanied by the payment of a fee as established by Section 12.15 Fees. No application will be considered complete unless accompanied by a fee payment. All fees are nonrefundable, regardless of the outcome of the application.

E. Special Event Review Procedure

1. Special Event Administrative Review: An event with at least one (1) component meeting the 'Administrative Review' line of Table 7.19, must submit an application as described in section D. above in addition to an application fee as required by the Hendricks County Fee Ordinance:
 - a. The Planning Staff will approve or deny the request, or determine that Plan Commission review is necessary.
 - 1) All decisions in this chapter are subject to the Appeals process Section Chapter 12.9
2. Special Event Plan Commission Review: An event with at least one (1) component meeting the 'Plan Commission' line of Table 7.19, must submit an application as described in section D. above in addition to an application fee as required by the Hendricks County Fee Ordinance:
 - a. Plan Commission Review. The Plan Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that the use at the proposed location:
 - 1) Will not be a lasting negative effect on the community at the conclusion of the event;
 - 2) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - 3) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
 - 4) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
 - 5) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
 - 6) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance; and
 - 7) Will be temporary and not be an alternative to a more stringent approval.
 - b. In the event that the Plan Commission feels that additional information is necessary in order to make its decision, it may instruct the applicant or the Plan Commission Staff to conduct additional studies or seek expert advice
 - c. A Public Hearing shall be conducted in accordance with the Plan Commission Rules of Procedure as amended.

- 1) Action by the Plan Commission shall comply with the Plan Commission Rules of Procedure, as amended. The Plan Commission shall approve, approve with modifications, deny, or continue the Special Event Request application.
- 2) The Plan Commission may impose conditions on the approval of a Special Event request if the conditions are necessary to satisfy the requirements and intent of this Ordinance. Accepted conditions shall become part of the record of approval.

F. Record of Approval. The Director shall maintain a record of all Administrative and Plan Commission Approvals.

G. Failure to Obtain an Approval. Failure to obtain an Approval shall be a violation of this Ordinance and punishable under Chapter 13: Violations and Enforcement

H. Event to be as provided in application, plan, and permit. Special event permits issued on the basis of plans and applications approved by the Plan Commission authorize only the activity and arrangement set forth in the approval, and no other arrangement or activity. Activity or arrangement contrary to that authorized shall be deemed a violation of this Ordinance, and punishable as provided in Chapter 13: Violations and Enforcement.

Hendricks County Fee Schedule 2009

Located under the **Plan Commission** Heading, Add:
Special Event Review; \$630

Located under the **Administrative Fees** Heading, Add:
Administrative Special Event Review; \$150

Mr. Whicker then called for any other business. Mr. Bruce Donaldson appeared and Mr. Whicker explained that Mr. Donaldson was the county's bond counsellor.

Mr. Bruce Donaldson of Barnes & Thornburg appeared to report on a matter from the County Redevelopment Commission. He stated that they had taken the first step at their meeting last week in adopting a declaratory resolution to establish the Ronald Reagan North Economic Development Area. He stated that in the packet of the Plan Commission was also included an Economic Development Plan. He stated that the redevelopment statute permitted the creation of economic development areas or targeted areas of the county the Redevelopment Committee wanted to do projects in. He pointed out that in the plan, the sole project targeted was the extension of the Ronald Reagan Parkway up to the county line of the north end of the county. He stated that the process for creating an economic development area started with a Declaratory Resolution and then it came to this body for a determination as to whether the resolution and the plan conform to the plan of development for the county and then it went to the County Commissioners. He stated if it was approved by the Plan Commission and the Board of Commissioners, it went back to the Redevelopment Commission for a final public hearing and confirmation. He went on to say that it was a four step process and that at tonight's meeting it was step 2. He stated that Mr. Greg Guerrettaz of Financial Solutions Group prepared the plan and was not able to be present this evening. He then stated he would take any questions.

Mr. Brad Whicker added that for those who did not know, Mr. Guerrettaz was the financial consultant for the county and a very talented individual. Mr. Whicker then asked Mr. Donaldson if he needed a formal vote on the resolution.

Mr. Donaldson stated that was correct.

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Mr. Gentry then asked if this represented the spirit or letter of the law on how the Tiffs and abatements were set up.

Mr. Donaldson responded that this would include the creation of a Tiff area and that part of the plan of finance would be to capture if Ronald Reagan could be extended and create new commercial development

Mr. Gentry asked if it could be used to maintain County Road 900 East but not specifically, could some of those dollars be used for that.

Mr. Donaldson asked if that would be in the same vicinity.

Mr. Gentry stated yes.

Mr. Ayers stated that it would be within the footprint of the parkway.

Mr. Whicker asked Mr. Dombrosky if he had a number for the resolution.

Mr. Dombrosky stated he would get that number from the Auditor, Nancy Marsh.

Mr. Gentry then stated that he and the other Commissioners had discussed the matter about Tiffs and abatements and he shared some of the other discussion on the matter with the members.

Mr. Whicker added that the abatements were at the discretion of the County Council.

Mr. Ayers stated he did not know the process of getting the money.

Mr. Palmer stated it was then his understanding that they were going to be passing a resolution that allowed them to take property tax and divert those specifically to road improvements/infrastructure.

Mr. Donaldson responded by pointing out that the Tiff component had nothing to do with the Plan Commission's role. He stated that the Plan Commission's role was simply to determine whether the Plan was consistent with the plan of development for the county and was more of a policy call for the Commission and County Commissioners. He then went on to say that any existing property taxes that were there now would continue to go to the taxing units as they always had. He stated if a Tiff area was established, then new construction of commercial property would get captured for a period of time not to exceed 25 years to allow those new taxes to help pay for the improvements, which would be the Ronald Reagan Parkway.

Mr. Whicker added but specifically to that and Mr. Gentry's comment earlier about a percentage of the pass through, would come to the local taxing agencies.

Mr. Donaldson added that the Commissioners had been negotiating pass throughs pretty consistently now and the most recent one was 50/50.

Mr. Whicker added that that was more palatable to the municipalities and school systems, etc.

Mr. Dombrosky stated then that what they were agreeing to in the EDA was consistent for our plan for commercial growth and it was a targeted area for commercial growth and the means that was up to our fiscal agents to use to help that economic development.

Mr. Whicker then added that what was before the members was a pretty easy decision allowing the other boards and bodies to do what they were elected or appointed for.

Mr. Dombrosky added that area was a place that we targeted for commercial growth.

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Mr. Reitz added to keep in mind that we had been working on the Ronald Reagan Parkway since the 1980's.

Mr. Ayers added that the idea was to build one cohesive project.

Mr. Gentry then made a motion to approve the **Resolution of the Hendricks County Area Plan Commission Determining that a Resolution and an Economic Development Plan for the Ronald Reagan North Economic Development Area Approved and Adopted by the Hendricks County Redevelopment Commission Conform to the Plan of Development for Hendricks County and Approving the Resolution and Plan**

Mr. Palmer seconded the motion.

FOR – 7 – AGAINST – 0 – ABSTAINED – 0 –

The Resolution wording was as follows:

RESOLUTION NO. _____

**RESOLUTION OF THE HENDRICKS COUNTY AREA PLAN COMMISSION
DETERMINING THAT A RESOLUTION AND AN ECONOMIC DEVELOPMENT
PLAN FOR THE RONALD REAGAN NORTH ECONOMIC DEVELOPMENT AREA
APPROVED AND ADOPTED BY THE HENDRICKS COUNTY REDEVELOPMENT
COMMISSION CONFORM TO THE PLAN OF DEVELOPMENT FOR HENDRICKS
COUNTY AND APPROVING THE RESOLUTION AND PLAN**

WHEREAS, the Hendricks County Area Plan Commission (the "Plan Commission") is the body charged with the duty of developing a general plan of development for Hendricks County, Indiana (the "County");

WHEREAS, the Hendricks County Redevelopment Commission (the "Commission"), as the governing body for the Hendricks County Redevelopment Department (the "Department"), pursuant to Indiana Code 36-7-14, as amended (the "Act"), on April 5, 2017 adopted a resolution (the "Declaratory Resolution") designating an area known as the Ronald Reagan North Economic Development Area (the "Economic Development Area") as an economic development area pursuant to IC 36-7-14-41, and designated all of such area as an allocation area pursuant to IC 36-7-14-39;

WHEREAS, the Declaratory Resolution approved an economic development plan for the Economic Development Area (the "Plan");

WHEREAS, the Redevelopment Commission has submitted the Declaratory Resolution and the Plan to the Plan Commission for approval pursuant to the provisions of Section 16 of the Act, which Declaratory Resolution and Plan are attached hereto and made a part hereof; and

WHEREAS, in determining the location and extent of the Economic Development Area, the Plan Commission has determined that no residents of the County will be displaced by the proposed development thereof; and

WHEREAS, the Plan Commission has reviewed the Declaratory Resolution and the Plan and determined that they conform to the plan of development

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for the County, and now desires to approve the Declaratory Resolution and the Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE HENDRICKS COUNTY AREA PLAN COMMISSION, THAT:

1. Pursuant to Section 16 of the Act, the Plan Commission hereby finds and determines that the Declaratory Resolution and the Plan conform to the plan of development for the County.

2. The Declaratory Resolution and the Plan are hereby approved.

3. This Resolution hereby constitutes the written order of the Plan Commission approving the Declaratory Resolution and the Plan pursuant to Section 16 of the Act.

4. The Secretary is hereby directed to file a copy of the Declaratory Resolution and the Plan with the minutes of this meeting.

SO RESOLVED BY THE HENDRICKS COUNTY AREA PLAN COMMISSION
this 11th day of April, 2017.

There being no further business, the meeting was adjourned at 7:58 p.m.

Tim Dombrosky, Secretary