

September 12, 2017

A meeting of the Hendricks County Area Plan Commission was held on Tuesday, September 12, 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; Mrs. Sonnie Johnston; Mr. Tim Whicker; Mr. Walt O'Riley; and Mr. Bob Gentry. Members absent were: Mr. Damon Palmer and Ms. Angela Tilton. Staff members present were: Mr. Tim Dombrosky, Secretary and Director of Planning; Mr. Graham Youngs, County Attorney Representative; Mr. Nick Hufford, Planner; and Mrs. Joanne Garcia, Recording Secretary.

The meeting was opened with the Pledge of Allegiance. There were five (5) members present.

Mr. Brad Whicker then called for a motion to approve the August 8, 2017 Plan Commission meeting minutes.

Mrs. Johnston then made a motion to approve the August 8, 2017 meeting minutes.

Mr. Whicker seconded the motion.

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

Mr. Whicker then called for the the public hearing items on the agenda as follows. He stated that both items on the agenda were amendments to the Hendricks County Zoning and Subdivision Control Ordinances and would require either a favorable or unfavorable recommendation from the Plan Commission to the Board of County Commissioners:

TZA 03/17: AMENDMENT TO THE HENDRICKS COUNTY ZONING ORDINANCE, CHAPTER 7, SECTION 7.12 (B.7) ACCESSORY DWELLING UNITS and referring to all of Hendricks County under the jurisdiction of the Hendricks County Area Plan Commission.

TSA 01/17: AMENDMENT TO THE HENDRICKS COUNTY SUBDIVISION CONTROL ORDINANCE, CHAPTER 5.06 EXEMPT SUBDIVISION; and referring to all of Hendricks County under the jurisdiction of the Hendricks County Area Plan Commission.

Mr. Dombrosky gave a presentation on the facts of the proposed amendment to the County Zoning Ordinance, Chapter 7, Section 7.12 (B.7) Accessory Dwelling Units. Mr. Dombrosky explained that if the members were in agreement, the matter could be voted on and sent to the Commissioners or it could be tabled until the next meeting. He stated that he had submitted a memorandum to the members outlining what had already been discussed and setting out what changes were being proposed. He stated the amendments were presented in ordinance format and that it was something the staff were ready to move forward with if the members were in agreement and if not, changes could be made. He stated that the public hearing could also be continued if necessary. He explained that the amendment was contained in a fairly short section of the zoning ordinance and would not be as substantial a change as first proposed. He stated they had been looking to permit accessory dwelling units by right in some areas and that had not happened, but that they were still special exceptions. He stated that the restrictions had been changed and he then directed the members to copies of the amended ordinance section which he had distributed. He explained that there were basically four changes that were different from the current ordinance. He stated that under subsection (a.) of Accessory Dwelling Unit Standards, what had been changed was that accessory dwelling units could be permitted as independent accessory structures. He stated that previously they had to be inside of an accessory structure in a pole barn or attached to a primary residence. He stated that now they were saying they could be a free standing or stand-alone building. He stated that they could still be attached to an accessory building. He then explained that the next change was that the units could not exceed seventy-five (75) percent of the footprint of the house and not the square footage of the entire house but just what covered the ground.

Mr. Whicker then asked about whether or not that would include the footprint of an attached garage.

Mr. Dombrosky explained that the intent was that the ADU (Accessory Dwelling Unit) remain subordinate and that it look like a secondary unit. He stated if the primary unit had a large garage attached and the ADU behind it was seventy-five (75) percent of that building, whatever was inside of it should look like it was smaller.

Mr. O'Riley then asked if the attached garage would be considered in the square footage.

Mr. Dombrosky stated yes and that it was a visual thing.

There was further discussion on that point among the staff and the members.

Mr. Dombrosky then added that it would not exceed the greater of six hundred (600) square feet or five (5) percent of lot coverage and this was a standard for all accessory buildings. He then stated that the next change was brand new and that the accessory unit could not be constructed farther than one hundred (100) feet from the primary dwelling.

Mr. Brad Whicker asked for further clarification of that change.

Mr. Dombrosky added that an accessory unit should be closer to the house than it would be to other property owners' houses. He stated if that ADU might be a nuisance, it should be a nuisance to the property owner and not his neighbors.

Mr. Brad Whicker discussed an alternative with Mr. Dombrosky who stated that on a larger lot, you might build the ADU far away from the primary and then come back later and split the property, thereby creating a small unit on its own lot. He stated that the structure should remain close so that it was clear that it was a secondary dwelling and not its own house which could be split off and sold.

There was further discussion on that point.

Mr. Dombrosky stated it should be clear that the ADU was an accessory to the primary residence.

Mr. Tim Whicker asked a question and Mr. Dombrosky responded that these requests would always go before the Board of Zoning Appeals.

Mr. O'Riley asked why a property owner would not want to minor plat the property instead.

Mr. Dombrosky added that one of the caveats was that this accessory unit scenario was not an alternative to platting and that it was not a "cheaper" alternative to platting.

Mr. Brad Whicker then asked if it would be handled administratively with the special exception.

Mr. Dombrosky responded no and that it would go before the full Board of Zoning Appeals.

Mr. O'Riley asked if there would be a minimum acreage.

Mr. Dombrosky stated no. He added that the one hundred (100) foot separation was meant to control that situation instead of placing a minimum acreage. He explained the situations occurring with minimum acreages.

Mr. Brad Whicker brought up the matter of ADU requests being nullified by Homeowners' Associations in Subdivisions.

Mr. O'Riley asked about even mentioning to an applicant that they check with their HOA.

Mr. Dombrosky responded that they tried to remember to remind applicants about checking with their HOA up front even though the Board of Zoning Appeals did not necessarily consider it. He stated that they were legally restricted from enforcing any HOA restrictions.

Mr. O'Riley then asked about the distance between a neighboring property and an ADU.

Mr. Dombrosky responded that on skinny lots, they had drawn up multiple different configurations on how it would work. He stated that since it was the BZA, they had put in an intent statement that any potential nuisance should be mitigated. He stated an applicant would have to go through the BZA and would have to show where the structure would be located and then either the BZA or applicant might say the structure would be located only ten (10) feet from the adjoining property owner's house.

There ensued a discussion on how close a secondary dwelling unit could be located to a neighboring house and how those situations should be handled.

Mr. Dombrosky then went on to explain the next change that a screening plan would be part of the process. He added that they were not saying that screening was always necessary but that screening should be considered. He stated that another matter for discussion was that they wanted people to be living in areas where it was appropriate and where there was infrastructure. He stated they would want to have people living where there was infrastructure and services and they did not want to restrict people from doing this where there were smaller lots.

Mr. Brad Whicker added, however, that the HOA would take precedence.

Mr. Dombrosky stated that would be correct. He stated that it should remain clear that the property is a single lot and use and the accessory dwelling should appear subordinate in size and/or location, which he stated was a little vague so that the BZA could work those out on a case by case basis.

Mr. O'Riley asked about it not being allowed to be a rental.

Mr. Dombrosky stated that we could not police that necessarily and that the best they could do was in the amendment and that on the conditions of approval of the special exception no address would be given and the property owner must be one of the occupants of one of those structures.

Mr. O'Riley brought up the scenario of someone renting the ADU and what would we do if we found out about it.

Mr. Dombrosky stated that was not specifically against the ordinance. He stated that the unit should remain subordinate, would not have its own address, and had to be close. He stated if there was a very good renter that you were close with, it would not really hurt the county.

Mr. O'Riley stated that it kind of bordered on a multi-family use.

Mr. Dombrosky responded that it was kind of.

Mrs. Johnston then asked what would happen to that secondary dwelling unit if it became empty.

Mr. Dombrosky stated there were problems with defining family and relationships. He stated it was better to consider the function of it. He stated if it was close to the primary residence and looked like an accessory structure with no address, the person living in it better have a good relationship with the occupants of the primary residence.

Mr. O'Riley stated he saw the need for it but that it would create challenges.

Mr. Dombrosky stated that they were trying to respond to the market.

September 12, 2017

There was further discussion on different scenarios that might be caused by the ADU's.

Mrs. Johnston asked about a mobile home on the property.

Mr. Dombrosky stated that the rules for mobile homes would remain the same as separate special exceptions through the Board of Zoning Appeals.

Mr. Brad Whicker then opened the public hearing.

Mr. Kevin Haughey of 7231 West County Road 350 South appeared. He stated that he was just interested in hearing about the amendment.

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

Mr. O'Riley then brought up the matter of septic systems for some of these ADU's.

Mr. Dombrosky responded that it would be handled the same as an addition to a structure to be used as a bedroom and that likely a new system would be required.

Mr. Gentry then told a story about an unsafe building due to bad drinking water. He stated the Health Department indicated there was nothing they could do about that.

Mr. Dombrosky stated his understanding of that situation was that the Health Department could not do anything because the tenants were choosing to live there when they could just go live someplace else. Mr. Dombrosky also stated that the Planning & Building Department could do something about an unsafe structure but not when it had to do with water or the septic.

Mr. Gentry then gave a scenario of more than one family living in a structure.

Mr. Dombrosky stated the only thing they could get involved with was if there was not adequate living space for each person and they could only go off of the state building code.

Mr. Dombrosky then discussed the next section of the amendment that had to do with outdoor storage. He stated they were making it so outdoor storage could be considered a primary use when it exceeded a certain amount of twenty (20) percent of the building footprint or six hundred (600) square feet. He added that there was not a significant change as to how that would function.

Mr. Brad Whicker stated he thought it would be more user friendly.

Mr. Dombrosky then went on to explain that the other ordinance amendment on the agenda had to do with a change to the Subdivision Control Ordinance, Section 5.06 Exempt Subdivisions. He stated that it had not been talked about with the full Plan Commission and only with Mr. Whicker. He stated they had been having issues with people wanting to do exempt subdivisions and stated that according to how he read it, they should not be allowed to do them. He explained that the current wording said that an exempt subdivision could be done if the existing building was legally conforming which meant that it conformed to all aspects of our ordinances. He explained that old farmhouses did not conform and that an old 1880's farmhouse sitting close to the road would not conform to modern day standards. He added that the way the ordinance was now written, you could not do an exempt subdivision.

Mr. O'Riley asked for a definition of what was an exempt subdivision.

Mr. Dombrosky responded that exempt subdivision approvals did not come before the Plan Commission. He explained that it was the simplest subdivision process for an existing farmhouse and splitting that farmhouse from existing farm acreage of at least twenty (20) acres. He stated the simple process did not require approval through the Health Department or the Surveyor.

September 12, 2017

Mr. Brad Whicker commented that a property owner would not have the expense of hiring an engineer.

Mr. Dombrosky went on to explain that a boundary survey was required without the topo work, a drainage analysis or review of a septic system. He stated there were a few other steps required in addition to the boundary survey and he would review the application in his office.

Mr. Brad Whicker asked Mr. Dombrosky if they had recently turned down a request for an exempt subdivision due to some of the requirements not being met.

Mr. Dombrosky stated that was correct and that they only would be approved if they met the setback requirement which on a major roadway could be one hundred eighty (180) feet. He stated the old farmhouses would not be able to meet that requirement. He explained that the only option he had was to give them a variance from the setback requirement and that would still not allow them to meet the right-of-way. He went on to explain that the proposed ordinance amendment was to allow the existing farmhouses to be grandfathered in to allow them to go through the exempt process, create their lot and when that house was gone, the new house would have to comply with the current development standards.

Mr. Tim Whicker added that there was a minimum size requirement.

Mr. Dombrosky stated yes at an acre and one half minimum with the right amount of frontage, etc.

Mr. O'Riley then discussed the non-compliant septic systems that might exist on these properties.

Mr. Dombrosky stated that there was a disclaimer on the exempt subdivision process that was required to be on the exempt subdivision plat that basically said the septic system had not been examined.

Mr. Brad Whicker added that the septic for these old farmhouses existed and would continue to exist or fail regardless of whether or not the exempt process went through.

Mr. Dombrosky stated that was correct and that they were not fixing those with this process. He explained that he was comfortable with this because it was an existing house and when that house was no longer habitable and had to be removed, a new building and septic permit would be required in order to construct a new home on the exempt plat and also that would pertain to adding on a bedroom to the existing house. He added that for those requests that did not fall under the exempt subdivision guidelines, the process for a minor residential plat could be utilized and it would require that a septic system was located.

There were further questions and Mr. Dombrosky reminded the members that a buildable lot was being created through the exempt subdivision process which would allow a new home to be constructed if the old house was demolished.

After some further discussion, Mr. Whicker opened the public hearing. There being no one signed up to be heard, Mr. Whicker closed the public hearing.

Mr. Dombrosky stated he had forgotten to discuss the second part of the exempt subdivision change and that he was removing the requirement to place building setback lines on the plat.

Mr. Whicker then called for motions on each amendment separately and that the motions were recommendations being forwarded to the Hendricks County Board of Commissioners.

September 12, 2017

Mr. Gentry then pointed out a typo error on the amendment for changes to #2 Bulk Storage and that it should read "shall be located NO closer than 50 feet to the property line."

Mr. Dombrosky acknowledged that correction.

Mrs. Johnston then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners for **TZA 03/17 Amendment to Chapter 7, Section 7.12 (B.7)** with the following correction that under 2. Bulk Storage, the wording would state that it "shall be located NO closer than 50 feet to the property line."

Mr. O'Riley seconded the motion.

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

Mr. Tim Whicker then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners for **TSA 01/17 Chapter 5.06 Exempt Subdivision**.

Mr. O'Riley seconded the motion.

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

The ordinances as approved were as follows:

Ordinance _____

An Amendment to the Hendricks County Zoning Ordinance by Amending Chapter 7: Development Standards; 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 Zoning Ordinance be amended as to Chapter 7;
Whereas, the Hendricks County Area Plan Commission has conducted a public hearing on the proposed amendment TZA 03/17 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:

AMEND "Section 7.12.B.7 to read;

Accessory Dwelling Units. It is the intent of this section to permit, in the correct context, secondary dwellings as an alternative single family living arrangement. It is the intent that the occupancy is associated with the primary dwelling, and that the dwelling be held to the standards below. The restrictions herein are designed so that it remains clear that the property is a single lot and use, that the accessory dwelling appear subordinate in size and/or location, and that any potential nuisance is mitigated.

- a. In any districts where an accessory dwelling unit is a special exception may be granted one accessory dwelling unit to be constructed within an accessory structure or as an independent accessory structure
- b. Occupation of accessory dwelling units may be limited by the Board of Zoning Appeals.
- c. The owner(s) of the single-family lot upon which the accessory dwelling unit is located shall occupy at least one (1) of the dwelling units on the premises.

- d. The Accessory Dwelling Unit shall not exceed 75% of the primary dwelling footprint and shall not exceed the greater of 600 square feet and 5% of lot coverage
- e. An Accessory Dwelling Unit shall be constructed no farther than 100 linear feet from the primary/principal dwelling
- f. An Accessory Dwelling Unit shall be constructed to maintain the existing appearance of the property and the approving body should consider the Residential Design Standards (8.1 I think)
- g. A screening plan shall be a part of the approval process
- h. A minimum of two (2) off-street parking spaces, including the driveway, shall be provided.

REMOVE 7.14.A. 5,6,&7

REMOVE 7.14.C.3. b.&c.

AMEND 7.14.C to read;

- C. Outdoor Storage- Outdoor storage, in compliance with the requirements of this section is a permitted use and shall be considered primary or accessory to the principal use.
 - 1. General. Standards that are applicable to all outdoor storage.
 - a. Screening. Outdoor storage of the types described below shall be screened with an opaque fence, split face block wall, continuous evergreen screen, or a combination of the three. The screen must measure a minimum of 7 feet in height. The fences or walls shall be compatible with or constructed from the same building material as the primary structure, and integrated into the design of the primary structure.
 - b. Primary- Outdoor storage shall be permitted as a primary part of a permitted use in the LI and MI zoning districts.
 - c. Accessory- Outdoor storage is accessory to a permitted principal use in all non-residential districts when it does not exceed the greater of 25% of the building footprint or 600 square feet.
 - 2. Bulk Storage.
 - a. In any district in which bulk storage is permitted, structures, buildings, or above-ground tanks used for bulk storage of flammable or explosive liquids, gases or other materials, shall be located **no** closer than 50 feet to the property line.
 - b. Additional information regarding evidence of safety measures may be required in order to determine the public safety therein.

Ordinance No. _____

**An Amendment to the Hendricks County Subdivision Control Ordinance
by Amending Chapter 5.06 Exempt Subdivision**

Whereas, the Board of County Commissioners of Hendricks County, Indiana adopted the Hendricks County Subdivision Control Ordinance on December 21, 2004

Whereas, the Hendricks County Area Plan Commission has recommended that the Subdivision Control Ordinance be amended as to Chapter 5.06 Exempt Subdivision

Whereas, the Hendricks County Area Plan Commission has conducted a public hearing on the proposed amendment TSA 2017-16 and voted on 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:

AMEND "Chapter 5.06 Exempt Subdivision Introduction" to read;

The Exempt Subdivision procedure applies only to divisions of land for the purpose of splitting off an existing legally established residence and accessory structures from a parent tract of land, provided that

(1) the new residential parcel meets all current development standards applicable to a residential parcel in the relevant zoning district, and (2) the remaining parent parcel is at least 20 acres in size.

AMEND "Chapter 5.06 Exempt Subdivision Section 1g." to read;

g. Development Standards – The lot shall meet all current development standards applicable to a residential parcel in the relevant zoning district. Existing structures do not have to meet development standards for setback, building height, distance between structures, or living area.

REMOVE from "Chapter 5.06 Exempt Subdivision Section 2 ";

b.IV.3. Building setback lines

c.111. IV. Building setback lines

That concluded the agenda items for hearing. Mr. Whicker asked Mr. Dombrosky if he had any other matters to discuss.

Mr. Dombrosky then announced that Board Member, Angela Tilton, had resigned her position on the Commission due to getting married and a change of job. He added that her seat on the Commission was an appointment by the County Executive from the County Extension Office or the County Surveyor's office.

Mr. Tim Whicker stated he believed it would be four or five months before her position on the Commission was filled.

Mr. Dombrosky stated he would consult with the County Attorney on the timeline for that appointment.

Mr. Dombrosky then informed the members that he had applied to the Indianapolis Metropolitan Planning Organization (MPO) for partial funding for a new Transportation Plan. He explained that they helped the County with funds for projects and what first steps he had taken to update the plan.

Mr. Brad Whicker stated he wanted a Plan Commission member appointed to any committees for this project.

Mr. Gentry then asked if a consultant was hired for the new plan, was the county locked into going through with whatever the consultant came up with.

September 12, 2017

Mr. Brad Whicker responded that we influenced it along the way and that the consultants did listen to what the county officials wanted.

Mr. Dombrosky stated that it would be governed by the MPO as they technically would be the contract holder. He stated he would have to determine if a consultant could be fired if they were not happy with the plan presented. He stated he was not certain but thought that was a possibility. Mr. Dombrosky assured the members that he would keep a close eye on any project that involved a consultant.

The members expressed their comments and concerns about initiating the project.

Mr. Dombrosky then went on to inform the Commission that he had hired a new senior planner for the Planning & Building Department. He stated that her name was Suzanne Baker and they would be meeting her at the next meeting in October.

There being no further business, the meeting was adjourned at 7:28 p.m.

Tim Dombrosky, Secretary