

June 12, 2018

A meeting of the Hendricks County Area Plan Commission was held on Tuesday, June 12, 2018 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; Mr. Eric Wornhoff; Mr. Walt O'Riley; Mr. Tim Whicker; Mrs. Sonnie Johnston and Mr. Bob Gentry. Staff members present were: Mr. Tim Dombrosky, Secretary and Director of Planning; Mr. Graham Youngs, Acting County Attorney; Mr. David Gaston, County Surveyor; Mrs. Julie Haan, Environmental Health Director; Mrs. Suzanne Baker, Senior Planner; Mr. Nathan Schall, 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 called for a motion to approve the May 9, 2018 Plan Commission Minutes.

Mr. Gentry made a motion to approve the May 9, 2018 minutes with Mr. Wornhoff seconding the motion.

The motion passed with two abstentions, those being Mr. Tim Whicker and Mrs. Sonnie Johnston.

FOR – 5 –                      AGAINST – 0 –                      ABSTAINING – 2 –

Mr. Brad Whicker then stated that one of the matters on the agenda had been withdrawn by the petitioner, that matter being **MAP 716/18 (Primary): The Reserve at Forest Commons, Sec. 2.**

Mr. Brad Whicker then called for the first item on the public hearing portion of the agenda as follows and he reviewed with those in attendance the rules for taking public comments on this matter:

**ZA 456/18: FSM PROPERTIES, LLC;** a zoning amendment change from AGR/Agriculture Residential District to HB/Highway Business District, 2.72 acres, Liberty Township, S9&10-T14N-R1W, located at the northeast quadrant of the intersection of U.S. Highway 40 and County Road "0." (Comer Law Office)

Mr. Ben Comer of the Comer Law Office, Danville, appeared on behalf of the petitioner, Mr. Wally Beg of FSM Properties, and the owners of the property, Mr. & Mrs. Robert Stephenson, who were also present.

Mr. Comer reviewed the location of the property at 404 East U.S. Highway 40 at the northeast corner of the intersection of U.S. Highway 40 and County Road "0" in Liberty Township. He stated that there was an existing house and some outbuildings on the property. He stated to the north of the property was some HB zoning with self-storage units in place and to the west of the property was Cox's Plant Farm across County Road "0." He stated this application was requesting a zoning change from AGR to HB. He stated the request would accommodate two things, those being to convert the existing house to a business use and eventually also incorporate some of the northern portion of the property to a self-storage business. He added that they had submitted a "Development Commitment" form containing two separate commitments, both generated through discussions with the Planning Staff. He explained that the first commitment would be limiting the number of road access cuts into the property. He stated that currently there was one on U.S. Highway 40 that the staff had requested be eliminated and that off County Road "0" there were two access points and one of those would also be eliminated. He stated that would leave one access point to the property from County Road "0" directly across from the Cox's Plant Farm's southernmost access point. He then explained that the second commitment they were willing to make coincided with the HB zoning to the north. He explained when that portion was rezoned years ago, five uses were restricted, and they would be making the same restrictions. He stated that those five restricted uses would be a wholesale business, boat sales and service, garage repair and service,

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motorcycle/scooter sales, service and repair, and day care center. Mr. Comer then asked for a favorable recommendation from the Plan Commission to the Board of County Commissioners for this rezoning.

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

Mr. Palmer asked for clarification which parcels were involved in this rezoning.

Mr. Dombrosky explained that the property in question would be the entire corner portion of 2.72 acres.

Mr. O'Riley asked for clarification that the petitioners were asking to be rezoned to match what was already an existing HB zoning around the property.

Mr. Dombrosky responded yes and that it would give them the ability to change the property line arrangement to allow them to build more storage units on the back portion and leave one lot in the front of the property for a general office use.

Mr. Palmer asked what the background on the exclusions was.

Mr. Dombrosky explained that there had been remonstrance from a property owner when it had been previously rezoned and was done to make that property owner more comfortable with the rezoning request.

Mr. Brad Whicker asked for further questions or comments before he opened the public hearing. There being none, Mr. Whicker opened the public hearing. There being no one signed up or wishing to be heard, Mr. Whicker closed the public hearing and called for further questions or comments.

Mr. Brad Whicker advised the members that this was a rezoning matter and that they would need to make a recommendation to the Board of County Commissioners and include the exclusions that were discussed. Mr. Brad Whicker commented that he did not believe there was a clear written document on those uses.

Mr. Dombrosky reiterated that the excluded uses were listed on the staff's letter of June 12, 2018 in the members' packets. He stated that the one other commitment discussed by Mr. Comer had to do with limiting the access point for the property to one off County Road "O." He stated this had been determined in discussions with the County Engineer, John Ayers, and that they had felt it would be better to have one entrance for the property. Mr. Dombrosky stated that their motion should include subject to the submitted conditions and exclusions.

Mr. Wornhoff then made a motion to send a favorable recommendation to the Hendricks County Board of Commissioners for **ZA 456/18: FSM Properties LLC** subject to the conditions and exclusions made by the petitioners.

Mrs. Johnston seconded the motion, which was a unanimous vote.

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

This matter would be heard by the Hendricks County Board of Commissioners on Tuesday, June 26, 2018 at 9:30 a.m. or thereafter.

The Findings of Fact/Law were as follows:

## Hendricks County Area Plan Commission

Findings of Fact/Law

ZA 456/18: FSM Properties

An application for the above noted zoning map amendment was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to rezone a property from PB/Planned Business District to AGR/Agriculture Residential District. Acting in its role as staff to the Hendricks County Area Plan Commission, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the department's office at the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1, the DPB staff published a legal notice in the *Hendricks County Flyer* and the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with the Hendricks County Area Plan Commission Rules of Procedure Section 3.07(D)(1). The public hearing included the above zoning map amendment on its agenda.

In accordance with Section 3.07(D)(2) of the Rules of Procedure of the Hendricks County Area Plan Commission, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this rezoning petition.

The Commission conducted the hearing as advertised and heard evidence and testimony on the above noted rezoning. Meeting in open session, the Commission subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and the Hendricks County Zoning Ordinance. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Commission weighed the evidence associated with the following requirements and made the following findings.

***IC 36-7-4-603: Zoning ordinance; preparation and consideration of proposals. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:***

(1) The comprehensive plan;

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

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

The proposed use will not negatively impact the district due to its proximity to other surrounding mix of uses.

- (3) The most desirable use for which the land in each district is adapted;  
The most desirable use for this property would be an Agriculture use such as an Agriculture Business or a similar compatible use such as what is being proposed.
- (4) The conservation of property values throughout the jurisdiction;  
Property values probably would not be affected negatively due to the mix of uses in the area.
- (5) Responsible development and growth.  
The proposed rezone would be responsible development and growth as it follows a recommended pattern of more intense uses locating along major thoroughfares.

Mr. Brad Whicker stated that concluded the regular agenda and that they would move on to any other business.

Mr. Dombrosky stated he had two items to bring up and that one was the introduction of the Planning Department's new planner, Nathan Schall. He went on to say that the next item was his appointment to the Danville Downtown Partnership and that the former director, Don Reitz, had previously been involved. He stated that he was going to continue with being involved and would probably send Nathan to attend the meetings. He stated he just wanted to make the members aware that the Plan Commission had a presence at the Danville Downtown Partnership meetings. He asked the members to let him know, as the county's representative on that Board, of any questions or concerns they might have pertaining to the town.

Mr. Dombrosky then brought up another item for discussion that the Middle Township Park Impact Fee would be coming before the Plan Commission at some point in time. He explained that it had been voted on by the voters of Middle Township to adopt for the unincorporated areas of Middle Township which were under the county's jurisdiction. He stated that the state statute on those impact fees did outline a process for unincorporated areas that were under someone else's purview or some other infrastructure provider's purview such as a parks board to have the ability to impose that impact fee. He stated that our Plan Commission had to be involved at some level and he stated he was not clear as to what that involvement was yet. He stated he did not think the Town of Pittsboro was clear about it either. He added what that would probably amount to was that we would collect a fee on each building permit that was issued for Middle Township but not in the Town of Pittsboro. He stated that amounted to less than ten a year and was not a huge deal and that it would be something we would need to figure out for very little benefit. He stated, however, that was what had been done. He stated it might be coming up during the next meeting and that Steve Maple wanted to get it going.

Mr. Brad Whicker asked for questions or comments.

Mr. Bob Gentry commented that on that issue, he felt it would be appropriate to ask Jason Puckett, the Deputy Auditor, to make a presentation at the meeting on the impact fee. He stated they were asking for \$50,000.00 to be collected from those in Middle Township and that it would depend on whether they started before or after the circuit breaker which would give the Hendricks County Plan Commission some jurisdiction and the decision would come from the Middle Town Council.

Mr. Gentry discussed further details on the matter with the members with Mr. Brad Whicker giving his opinion that he would rather not be involved with the collection of those fees.

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Mr. Gentry stated he thought they would have to be involved as per state statute.

Mr. Dombrosky stated he thought there was a clause for passing the administration of the fee back to the Park Board.

Mr. Brad Whicker added that he would really like to hear from the constituents of Middle Township who would be impacted and hoped there would be some who would attend the meeting.

Mr. Gentry stated that apparently there was confusion on how the fees were to be collected.

Mr. Brad Whicker asked Mr. Dombrosky to speak with Mr. Puckett and ask him if he would be willing to come to a meeting to discuss the matter with the Plan Commission.

Mr. Brad Whicker then also thanked Mr. Tim Whicker for volunteering to serve with him on the Nitty Gritty Planning Session.

There being no further business, Mr. Brad Whicker adjourned the meeting at 6:55 p.m.

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Tim Dombrosky, Chairman