

October 13, 2020

A meeting of the Hendricks County Area Plan Commission was held on Tuesday, October 13, 2020 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; Mr. Ron Kneeland; Mr. Bob Gentry and Mr. Damon Palmer; Mr. Walt O'Riley. Members absent were Mr. Tim Whicker and Mrs. Margaret Gladden. Staff members present were Mr. Tim Dombrosky, Secretary and Director of Planning; Mr. Greg Steuerwald, County Attorney and Mrs. Brandy Swinford, Recording Secretary. Also present was Mr. Jeff Pell.

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

Mr. Brad Whicker stated the first order of business was the approval of the minutes from the September 8, 2020 meeting.

Mr. Gentry motioned for approval for minutes from the September 8, 2020 meeting.

Mr. Palmer seconded the motion. Mr. O'Riley abstained.

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

ZA 475/20: PILLARS OF FREEDOM, LLC; a zoning amendment change from PB/Planned Business to LI/Light Industrial for a proposed self-storage facility; 15.96 acres; Center Township; S7-T15N-R1E; located on the east side of County Road 300 E., south of US Highway 36 and the railroad (Comer Law Office)

Mr. Ben Comer, Comer Law, 71 W. Marion Street, Danville appeared. He stated that Mr. Duane Lane was the principal of that entity and was here as well to answer any questions they may have. He pointed out the area on the slide. It is approximately 16 acres located on the east side of County Road 300 East opposite of 84 Lumber. In 2006 it was rezoned from LI/Light Industrial to PB/Planned Business to accommodate a specific project for a roofing supplies wholesaler. That project never developed. With that rezoning they put some recorded commitments in place to go with the rezone. They wish to rezone it back to the LI/Light Industrial zoning district and remove the former commitments associated with the prior project. It is surrounded by LI/Light Industrial to the east, north and west. To the south is AD/Airport District. He stated that this part of the county is earmarked for industrial development by existing zoning as well as the comprehensive plan.

Mr. O'Riley asked if the lot to the north would be part of it as well.

Mr. Comer replied that it was a possibility.

Mr. Brad Whicker opened the public hearing. With no one signed up to speak, he closed the public hearing. He then asked if there were any further questions.

Mr. Gentry motioned for a favorable recommendation and removing of the prior conditions of **ZA 475/20: Pillars of Freedom, LLC.**

Mr. O'Riley seconded the motion.

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

ZA 476/20: FSM PROPERTIES, LLC; a zoning amendment change from HB/Highway Business to GB/General Business for a proposed boat/RV storage; 9.85 acres; Liberty Township; S9/S10-T14N-R1W; located at 6315 S. County Road 0, Clayton IN (Comer Law Office)

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Mr. Ben Comer appeared on behalf of Mr. Wally Beg who was the principal. He stated he was present as well to answer any questions they may have. He noted it was similar to the last petition. This concerned two (2) tracts of land located at 404 E. US Highway 40 in Clayton. It is approximately 10-acres. He stated that it was zoned HB/Highway Business. The prior owner rezoned it and started this project as a self-storage facility. There are currently three (3) buildings there now. The home has been removed and the development plan for the expansion has been approved by the Plan Commission. The landowner was unaware at the time of purchase that the HB zoning district did not allow the ancillary use of boat and/or RV storage. It was his intent and wish to pursue the boat and RV storage. He stated that by requesting the rezone it will allow the use of RV/boat storage as a special exception through the board of zoning appeals. When the land was zoned to HB/Highway Business there was some concern from the neighbors to the north at that time. They showed up at the meetings and they had some discussions and at that time some commitments were put in place. One of those commitments was that there would be no boat sales and service, which was the closest use to what they were wanting to do at that time. Through the years the relationship has grown, and they are comfortable now. The neighbors are no longer remonstrating. Landscaping has gone in per the development plan. They wish to remove the commitment that was made with this rezoning petition to prohibit boat sales and/or service.

Mr. Brad Whicker asked if there were any questions for the petitioner from plan commission members.

Mr. Palmer asked if there was anything on record from the neighbors stating they had no concerns with this change.

Mr. Comer stated they do not have anything of record.

Mr. Beg stated that they stated that they would give them a letter if he needed it.

Mr. Comer stated that they were not here and had been in the past, so that would be an indication they were not opposed.

Mr. O'Riley asked if there was a separate piece of property to the right from the storage.

Mr. Comer stated that the property on the left southwest corner was a separate tax parcel

Mr. Dombrosky showed the on the slide the parcels in question. He stated that the development plan review had come before the plan commission previously as well as the previous rezone. There was further discussion about how they would like to see it if they do receive approval for the rezone and special exception.

Mr. Brad Whicker asked if it was appropriate for them to request the zoning change and the self-imposed restrictions one in the same or separately.

Mr. Dombrosky replied that he and Mr. Comer talked about it. There are a lot of these cases that the zonings have commitments on them. He does not like it; he feels it adds caveats to the zoning that when you look at the zoning map are not immediately apparent. Buyers are not always aware of them. Usually they are recorded but they do not always come to the surface. He prefers that the development commitments are considered during the development specifically with what development is being proposed and not to the property. He believes if the zoning stands on its own merits it should be approved, and we should consider the development when it comes up. He would suggest they do an amended DPR if and when they receive a special exception.

Mr. Gentry clarified that if someone had an issue with the boat/RV storage then they could come to the commissioners meeting.

Mr. Dombrosky stated that is what he would suggest. He stated that if they felt or needed to see something from the neighbor, he should ask Mr. Comer to present that at the commissioners meeting.

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Mr. Brad Whicker stated that they would also have the opportunity to come back to the amended DPR meeting as well. They would have two (2) opportunities to voice their concerns.

Mr. Dombrosky noted that they would also have a chance at the BZA meeting.

Mr. Steuerwald stated that the commissioners meeting was not a public meeting. They would need to contact the commissioners directly.

Mr. Brad Whicker opened the public hearing. There being no one signed up to speak, he closed the public hearing.

Mr. Palmer asked if the amended DPR would be a public hearing.

Mr. Brad Whicker replied that it was. He asked if there was anything else they need to be concerned about.

Mr. Dombrosky stated that he and Mr. Steuerwald were discussing how to officially remove the development commitments from the record. They were recorded with the last rezoning. With this rezoning, he believes they are overwritten but there is still a recorded document attached to the property.

Mr. Steuerwald stated that somewhere along the line someone will have to take an action to remove the recorded commitments from the parcel of ground.

Mr. Brad Whicker stated that the commissioners have the executive power. He felt that it should be done there.

Mr. Steuerwald stated that they would have to ponder on that more.

Mr. Comer stated that he thought that they could use the same form that they used to create the commitments and just amend it.

Mr. Brad Whicker stated that for the record, that was not the issue before them this evening.

Mr. Kneeland motioned for a favorable recommendation of **ZA 476/20: FSM Properties, LLC**.

Mr. Gentry seconded the motion.

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

Mr. Comer asked if they could have a formal vote on the commitment change.

Mr. Brad Whicker stated that he thought the sidebar discussion they had determined that it would be dealt with at the commissioners meeting.

Mr. Dombrosky stated that he believed it was included in the motion. He asked Mr. Kneeland if it was understood with his motion that he was going with staff recommendation to remove the commitment.

Mr. Brad Whicker stated that he wanted to clarify with the persons making the motion and the second that it included that language of removing the restrictions.

Mr. Kneeland stated that his motion was to include that language.

Mr. Gentry stated that he did not understand it that way.

Mr. Brad Whicker stated that was okay. He stated he could withdraw his second if he wished.

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Mr. Gentry asked what restrictions they were talking about.

Mr. Comer replied that there was only one (1). It would only be the one referring to allowing the boat sales and/or service so that they may pursue a special exception.

Mr. Dombrosky explained that in 2001 when it was originally done, there was no outdoor self-storage of vehicles as a use. His thought was that it was included to exclude the type of use that would translate to boat/RV storage. In spirit it is the same use or a similar use. He wanted to make clear that it would be separate and allowable now, whereas back then it was not

Mr. Gentry stated that he would stay with his seconding of the motion. He was okay with it.

Mr. Brad Whicker stated that the motion and the second would stand.

Mr. Steuerwald stated that this was a reminder that back over the years the petitioners come in with these self-commitments as part of the original petition. They just went with the process. They may have been very well founded then but are not founded now when we have another change in the zoning.

ZA 477/20: ANTHONY SHEPARD; a zoning amendment change from NB/Neighborhood Business to GB/General Business for a proposed short-term sale/display of steel carports; 2.3 acres; Marion Township; S9-T15-R2W; located at 6859 through 6949 W. US Highway 36, Danville IN (Anthony Shepard)

Mr. Dombrosky stated that Mr. Shepard was not in attendance. He stated that they could go through the petition and see if they had any questions.

Mr. Brad Whicker stated that they could go through it and let staff answer any obvious questions or concerns. If they were not comfortable, they could continue it or offer no recommendation. He reviewed the petition and asked if staff had any other comments they wished to share.

Mr. Dombrosky showed the parcels on the slide. It included seven (7) parcels. There had been houses on some of the parcels which have been torn down. He stated that Mr. Shepard had owned the property for a while. Mr. Shepard contacted the Planning & Building Department a number of years ago and asked if this would be a permitted use. Mr. Dombrosky stated that Mr. Shepard said he was told it was permitted at the time. Mr. Shepard decided to pursue that venture this year and purchased some. Staff believed them to be open sided metal carport type structures. Mr. Shepard came back and found out they did not think it was a permitted use. These carports would be on his property for display, they are not being sold there. They would be shipped directly from the company if you purchased one. He stated that he did not believe it was permitted under the NB/Neighborhood Business zoning because it was not well-defined. Mr. Dombrosky believed the closest use would be similar automobile sales due to it being an outdoor product with no storage, sitting out on the lot, but it does not fit in any use category.

Mr. Palmer asked about mini barn sales if that would be similar.

Mr. Dombrosky replied that there is no use for that. There has not been a need for it to be defined as a use. Mostly it is an accessory to something else. He does not have an issue with the zoning, it is mostly NB/Neighborhood Business around New Winchester. That is to encourage commercial growth in the town that serves that community. He noted the other zoning districts in the area.

Mr. Brad Whicker stated he also did not see an issue with the zoning change but noted that one thing leads to another. He asked what happens when he has multiple carports out there and someone wants to stop and look at them and then there is no place for them to pull off and park. He asked if they would need to do anything more to the property.

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Mr. Dombrosky stated that there was a pad there as well as a pull off. He believed it needed to be improved. They did look at it.

Mr. Brad Whicker asked if there would be development plan for this since there is not a structure going in should this get approval from the commissioners.

Mr. Dombrosky replied there would not. They did discuss it, and the most he would need to do is improve the drive. That would not warrant a development plan.

Mr. Gentry motioned for a continuance for **ZA 477/20: Anthony Shepard** to the November 10, 2020 meeting.

Mr. O'Riley seconded the motion.

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

DPR 486/20: HENDRICKS GATEWAY PARK, BUILDING 4 (PRIMARY); a development plan review for a warehouse building; 61.51 acres; Liberty Township; S35-T14N-R1W; located 3000 feet west of the intersection of State Road 39 and Gateway Point within Hendricks Gateway Park development (American Structurepoint)

Mr. Nick Everhart, American Structurepoint 9025 River Road, Ste. 200, Indianapolis IN appeared. It was noted that Mr. Phil Groce was also there via telephone to answer any questions. He stated that they were before them last year for Buildings 1 and 2. Building 4 was located on the far west end of the property. It is a little over a million square feet. The primary and only access is off of Gateway Pointe. This project will extend it another 1385 feet, curve around and end in a cul-de-sac on the south end of the property. The road will be developed to public standards. He showed the plat on the slide. He stated that the trailer parking was located on the east and west sides. There will be a pond on far west side. The office pods were shown as the bump outs on the plans. The parking will be on the north end of the building and if it were to be multi-tenant there would be additional parking on the south end. He noted that the elevations were the same as Buildings 1 and 2. They are using the same architect as well so the color scheme and architectural design will be similar. He then went over the modification requests which were the same as the previous buildings.

Mr. Brad Whicker asked if there were any initial questions from the plan commission members.

Mr. Gentry asked if this project was on the border of any residences.

Mr. Brad Whicker stated it was not.

Mr. Brad Whicker opened the public hearing. There being no one signed up to speak, he closed the public hearing.

Mr. Ayres asked Mr. Everhart if he understood the question on the construction drives.

Mr. Everhart replied and asked if he was referring to the temporary construction entrance.

Mr. Ayres stated that is correct. He stated that the one shown on the plans was on the radius and did not go to the site. It was unclear what was going on with it.

Mr. Everhart stated that they did have it on the radius the first 150-feet of road thinking that going through the first project and using the same contractor doing the stuff that would get them entrance to the site. It was difficult to put it anywhere else. He was open to suggestions if he would like to see it somewhere else.

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Mr. Ayres stated that he was not sure how it was going to work with their road construction.

Mr. Everhart replied that it was kind of tricky. His thought was that if they started there, they would have to get stone out and as the site develops, they could show two (2) entrances. He stated it was the only point of access.

Mr. Ayres stated that it was in the public right of way. It does not extend off the ROW into the building site. He thinks it needs to extend and they need to show how they are going to get to the building pad.

Mr. Everhart stated they would get that added and submitted.

Mr. Gentry motioned for approval of **DPR 486/20: Hendricks Gateway Park, Building 4 (Primary)** with the requested modifications.

Mr. Kneeland seconded the motion.

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

Mr. Dombrosky stated that he quickly wanted to discuss ZA 477. He stated that part of Mr. Shepard's issue was that he had already purchased the buildings. Mr. Dombrosky stated that he told him that since it was not a defined use, he either needed to ask for the Plan Commission to define it or go with his judgment. Timing being the issue, he went with the latter. If they feel that it is warranted as its own use, they can do that. He could present something about it at the next meeting. He stated that it has not come up very much, and he does not feel that it is common enough to warrant its own use.

There was more discussion about possible scenarios regarding traffic and possible issues and questions that may come up.

There being no further business, the meeting was adjourned at 7:20 p.m.

Tim Dombrosky, Chairman