

September 10, 2019

A meeting of the Hendricks County Area Plan Commission was held on Tuesday, September 10, 2019 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. Walt O'Riley; Mr. Tim Whicker; Mr. Bob Gentry; and Mr. Ron Kneeland. Members absent were Mr. Jeff Pell and Mr. Damon Palmer. Staff members present were Mr. Tim Dombrosky, Secretary and Director of Planning; Mr. Greg Steuerwald, County Attorney; Mrs. Suzanne Baker, Senior Planner; and Mrs. Brandy Swinford, Recording Secretary.

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

Mr. Brad Whicker stated the first order of business was approval of the minutes from the August 13, 2019 meeting.

Mr. Gentry motioned for approval for minutes from the August 13, 2019 meeting.

Mr. Tim Whicker seconded the motion.

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

**ZA 464/19: REDWOOD ACQUISITIONS;** a zoning amendment change from AGR/Agriculture Residential District to RE/Multi-Family Residential District; 22.05 acres; Lincoln Township; S6-T16-R2; located approximately 600 feet north of the intersection of E. 600 North and N. 900 East on the east side of the road. (Russell A. Brown, Attorney)

Mr. Brad Whicker stated that they had received a request for a withdrawal of this petition and noted that staff had put a sign to that effect and was able to reach some people to get the word out to avoid having anyone make an unnecessary trip. He thanked the petitioner for coming to be there to answer any questions had there been anyone show up to speak on the petition.

Mr. Russell Brown, attorney with Clark, Quinn, Moses, Scott & Grahn, at 320 N. Meridian St., Ste. 110, Indianapolis appeared on behalf of the petitioners. He stated that they are requesting a withdrawal as they are planning to file the rezoning and annexation petition with the town of Brownsburg. He stated that he appreciated staff's time through the process. They had begun the process in December of last year. They were given information to encourage them to go through this process with the county and then complete the annexation process in the first quarter of 2020. He stated that opinion has changed, and they were informed of the change on August 30, 2019, which was after the date that staff would have to give notice. He stated that was the reason for the late withdrawal.

Mr. Brad Whicker thanked him for coming in person. He stated that should we have had remonstrators; it would be better received hearing it from him rather than the board or staff.

Mr. Gentry motioned for withdrawal of **ZA 464/19: Redwood Acquisitions.**

Mr. O'Riley seconded the motion.

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

**TZA 04/19: AMENDMENT TO THE HENDRICKS COUNTY ZONING ORDINANCE, BY AMENDING CHAPTER 8.3: NON-RESIDENTIAL DESIGN STANDARDS;** and referring to all of Hendricks County under the jurisdiction of the Hendricks County Area Plan Commission.

It was noted that the above case was listed incorrectly on the agenda and should be under the public hearings.

Mr. Brad Whicker opened the public hearing.

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There being no one in attendance to speak, Mr. Whicker closed the public hearing.

Mr. Steuerwald asked if it had been advertised in the paper.

Mr. Dombrosky confirmed that it had been advertised, it was just a clerical error on the agenda. He stated that this has been discussed for a couple of months now. This is the case where we continually hear waiver requests from our architectural standards for the large warehouse buildings where we require 50% masonry construction; not just masonry, but specific types of masonry. After looking at other towns ordinances as we talked about last month, we are higher in standards than Plainfield and Brownsburg. This change would put us in line with what they are doing. It would basically allow a tradeoff of the masonry construction for some other architectural details, like entrance enhancements and that type of thing. It gives us a little more flexibility but still maintains the high standards for the construction.

Mr. Brad Whicker stated that he and Mr. Dombrosky had had a meeting on it and discussed that they were getting the same exact waiver request on virtually every building they were approving. Rather than continually grant waivers, lets make a change to be more in line with what is being built or has been built in other municipalities. He stated that he is in agreement with it. He and Mr. Dombrosky have worked through some of the items. He would open it up for discussion with the body.

Mr. Dombrosky stated the only comment he had was not directly about this, but that he knew that Mr. Palmer had some concerns with the landscaping. That will not be affected by this. That is something that we can and should discuss.

Mr. Brad Whicker asked if there were any other comments or discussions about the matter. If not, he would entertain a motion for approval of a favorable recommendation.

Mr. Gentry motioned for approval of a favorable recommendation of **TZA 04/19**.

Mr. Kneeland seconded the motion.

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

Mr. Dombrosky stated that it would go the Commissioners meeting in 2 weeks.

Mr. Brad Whicker asked if there was anything else that needed to be discussed.

**DISCUSSION:**

Mr. Dombrosky stated that when they talk to developers on the fringes of the towns, they always go to the plan staff at those towns and talk about what their plans show. We have copies of their plans and reference them. Our comprehensive plan dictates that we do that and coordinate with them. There is nothing hard and fast that says we need to adhere to their plans, but we at least need to reference them. It has come up more frequently than in the past. He stated that he has talked with Jodi in Avon and Todd in Brownsburg a little bit about how we can maybe formalize a process of what goes on there. We cannot abrogate any responsibilities to the towns; they would have to annex. We talk to the plan staff, but we do not talk to their plan commission, just like they do not talk to ours. There has to be something that we can do more towards a formal process when we are on the borders of the towns. He asked if they had any suggestions.

Mr. Brad Whicker asked if there was a memorandum of understanding that exists that could be edited.

Mr. Steuerwald replied that he was not sure what they would do. Maybe just an informal agreement that we put them on notice or notify them of any applications, so they could have a chance to come and voice their opinion.

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Mr. Brad Whicker used the Redwood Acquisitions petition as an example. In his opinion, that was whole-heartedly a Brownsburg project. We were going to be potentially doing some heavy lifting on their behalf and he did not like that from the beginning. It's very controversial project. We saw that a couple of months ago when the room was full of 80 people here to possibly remonstrate. He stated that when its on the fringes of a town, the commission is more likely to shoot it down.

Mr. Dombrosky stated that he was looking for a little recommendation from them on what he should tell people when they come in.

Mr. Brad Whicker stated that his position would be that they need to get the municipality on board with this project before you file with us. We need to have some principal agreement that they are going to support this. Its unlikely that if the municipality is not on board that it will pass through them, he felt. He also stated that staff should be in contact with their planners to see where they are at in the process. There needs to be good open lines of communication.

Mr. Dombrosky stated that he appreciated the open dialogue between staff and the plan commission. He felt that other plan commissions did not have that. The other plan staff do not know what their plan commission is going to do month to month, in his opinion.

Mr. Dombrosky stated that he also wanted to talk about the rules for noticing. We have clear rules for providing notice for the petitioner to provide notice to the surrounding affected landowners. We do not have good rule for how to handle situations like the Redwood petition, where they tell us in the afternoon they want to withdraw in the evening. We posted a sign on the door, and we called a few people that we had numbers for. He stated that they could amend the Plan Commission Rules and Procedures easily if you wanted to. In August, we asked them to send notices that they were going to request a continuance at the August meeting, but we had enough time to do that. He would like to add it to the rules, if they are in agreement, that we require notice of withdrawal request or continuance request.

Mr. Tim Whicker asked how we would enforce that if it were a withdrawal if they say they are not going to do it.

Mr. Brad Whicker stated it would be hard on a withdrawal request.

Mr. Dombrosky replied that there are different rules on how it is handled. If it is less than five (5) days, they have to come to the meeting to make the request. If it is more than the five (5) days, they can just withdraw it.

Mr. Brad Whicker stated that they could implement a fine.

Mr. Dombrosky stated that the consequence of them not withdrawing a petition is that there is a longer timeline before they can reapply.

Mr. O'Riley asked if we post anything on the county website. It would at least show good faith.

Mr. Dombrosky replied that we do, but not everyone looks at the website. He would like to require them to somehow notify people that they are going to request a continuance.

Mr. Tim Whicker asked if we can require in the wording of the letter that they send, to reference the website to check for updated information.

Mr. O'Riley stated that would then put the responsibility back on them before they show up.

Mr. Steuerwald stated that we needed to think this through. If they are requesting a continuance, it will be moved to the next meeting date. They don't have to send new notices to the surrounding property owners. We assume it will be granted, but we don't know for sure. If they send those notices out, how will the public know the date that its being continued to. There needs to be more thought put in on how that would work.

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Mr. Steuerwald then gave an update on the Himsel case. The trial court reversed itself and ruled in our favor once the county got involved. He thought we were very helpful in that matter because we had a good basis for saying they didn't appeal our decision, which was statutory, and they had thirty (30) days to do so. The court of appeals affirmed that decision and went along with us. The neighbors/ remonstrators petitioned the supreme court to transfer. Everyone has an absolute right to go to the appellate court, you don't have an absolute right to go to the supreme court. The supreme court picks and chooses whatever cases they want. We filed last week our position of don't accept transfer, the appellate court got it right. The banker's association joined us jointly in our petition. Our positions are very similar. The neighbors were joined by the American Humane Society and nine (9) law professors. There is no deadline for the supreme court to make a decision, but he will keep everyone informed.

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

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Tim Dombrosky, Chairman