

January 8, 2009

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, January 8, 2009 in the Fire Department Training and Conference Room located at 5080 West State Road 46. Sandy Hash called the meeting to order at 6:00 P.M. and lead the Pledge of Allegiance.

Roll Call: Members present were: Sandra Hash, President, Terry Baker, Vice President, Dan Swafford, Don Calvert (came in a few minutes late), Ron Wayt, and Frank Buczolic and Connie Griffin.

Members Absent: Phil Smith and the Director of Planning- Frank Nierzwicki.

2009 Election of New Officers

Sandra Hash- I nominate Terry Baker for President of the Plan Commission, Frank Buczolic seconded the nomination, all in favor, Terry Baker will be the new President.

Dan Swafford- I nominate Sandra Hash for Vice President of the Plan Commission, seconded by Terry Baker, all in favor. Sandra Hash will be the new Vice President.

Approval of the Minutes

The order of the agenda was changed, first New Business.

Terry Baker- Do I have a motion to approve the minutes, December 4, 2008 meeting.

Dan Swafford- I make a motion to approve of the December 4, 2008 meeting minutes. Frank Buczolic seconded. Motion carried.

New Business

Request to rezone parcel 009-09260-04 and 009-09260-03 at 5920 W. SR 46 from R-1 to C-3 Jay Richardson Petitioner

Jay Richardson- The property we want to rezone is right on SR 46. I own the lot and 2/3 of the lot behind my shop lot. I want to rezone these to commercial. The back lot behind my shop has an easement through my front lot, so I would like both to be commercial.

Dan Swafford- Connie could you go over the legal notice and if there is any confusion on that address.

Connie Griffin- This afternoon I started preparing for this evening to present the staff report as prepared by the director. I found a disagreement in the address listed in the paper and the second, back lot. The first lot states the address is 5290 W. SR 46 and the lot behind the front parcel states 5922 W. SR 46. According to the GIS systems, Monroe County and Plexus, the back lot states 5922 W. SR 46, and I wanted to bring this to your attention to make sure no confusion exists prior to rezoning the property. The 5920 was advertised in the hearing notice.

Jay Richardson- I've been to the court house twice to have them change the address on the property tax bills to 5290 W. SR 46. For some reason it hasn't been done. The people at 5922 do not own the property that we are trying to get rezoned.

Connie Griffin- The 5920 W. SR 46 was passed for rezone, according to the October 21, 2008 Plan Commission meeting minutes.

Sandra Hash- I reviewed the minutes preceding the Plan Commission where it went to the Town Council for the first reading, in the actual ordinance that went to the Town Council it only included 5858 W. SR 46, 5290 did not get included. I don't know if there was an issue, if he didn't have the legal description, because we had to get an ordinance prepared, which required the legal description. I know we didn't want to hold up the radio station so, I think even though it went through the Plan Commission I don't think the ordinance was prepared in a timely fashion to include it. So, 5920 hasn't been changed. I wanted to clear this up.

Connie Griffin- So, both parcels will come before you this evening.

Frank Buczolich- Are both parcel numbers correct?

Connie Griffin- Yes, both parcel numbers are correct.

Sandra Hash- I haven't received a zoning fee from the Richardson's.

Mrs. Richardson- Frank is waiving the fee.

Sandra Hash- Why?

Mrs. Richardson- When the original come through for the radio station address, they came to the finalization that it wasn't zoned commercial. So, they had to go back to stage one, they asked Jay if we would go ahead and do the shop 5920 W. SR 46 at the same time, and that the fee would be waived. If we would do that, then Frank ended up transposing the numbers for the hearing notice of the address. Frank called me on 1/6, so we got here and it wouldn't go through, and then it went through and then it ended up being postponed until today. Frank called me two days ago to verify everything. He said he would put both parcels in, and I asked him about the fee and he said it was 200.00, is that for both, because originally the shop parcel was going to be done at no charge, it was going through at the same time as the radio station. He said I'll tell you what we can normally do three parcels at a time, and since there has been so much confusion I'll waive the fee. It has been confusing and continues to be.

Dan Swafford- It has been advertised for these two parcels.

Connie Griffin- It has been advertised as 5290 W. SR 46. I have a copy before you.

Jay Richardson- We still own the three lots; we sold the triangle lot with the house a few years ago. The people at 5922 don't have anything to do with this.

Sandra Hash- There are no improvements on the lot. I'm not sure if it would have an address. So, both of the parcels are included, the legal notice was in the paper all the neighbors have been notified, and there are no neighbors here to complain or ask any questions. I'm thinking to tie this into together; there was the thought that this was all already commercial. So, that added to the problem, so this is really just cleaning this up for us, because this all should be commercial. It's been commercial as long as I can remember, so I think all of our bases have been covered.

I make a motion that we approve the request to rezone parcel 009-09260-04 and 009-09260-03 at 5920 W. SR 46 from R-1 to C-3 Jay Richardson Petitioner.

Dan Swafford- I'll second.

Terry Baker- All in favor say aye, all in favor, no opposition. Motion passed.

Sandra Hash- Does Frank have your legal description?

Jay Richardson- Yes.

Old Business

Proposed changes to the Ellettsville Town Code

Connie Griffin- I mailed you the most recent code changes before the holidays. I added a new section, and that is an insert page, page 7. I'll explain this as we approach this page. We can go through most of these fairly quickly, unless you have any questions. Most of the codes haven't changed from what we have discussed already several times.

Page 3- We need to discuss Sandy's revised copy and the slight revision from the Planning Dept. All departments could incur expenses on a cleanup of a property. The Planning Dept. would basically incur postage expense, so I don't have a problem with keeping her revision that cover the street dept. expenses. This would eliminate a lot of extra work for her, to cover a few mailings, so I suggest we stay with this revision.

Under 152.143

This is where the page 7 insert will come up. I added an abatement suggestion for fixing or repairing the violation. The director suggested 10 days for the abatement. We state a 10 day repair, but you couldn't do repairs of this nature during this time of the year. This is a suggestion; we will work with the violator on the cleanup abatement date. It will be very situational.

Don Calvert- Does it say anything about contacting you before a certain period of time?

Connie Griffin- We could add a statement about making arrangements.

Sandra Hash- There 10 days would start after the letter or posted notice.

Connie Griffin- Yes.

Sandra Hash- Have you talked to the Street Department?

Connie Griffin- I wanted to come before you this evening and then we would talk to him about afterwards. He has reviewed the other code and thought that was good.

Terry Baker- I was reading in the other code that you sent us on condemned property, and they had a good wording it had the 10 days, and then another statement that allowed for some flexibility there if it couldn't be corrected before the 10 days. We need to have it stated in here, something that gives us the latitude to extend the date or more control.

Connie Griffin- I'll cross reference that code and add that in for the next meeting.

I'll continue with new code additions. Some additional work was done on sign regulations. Page 11, this is a new code. After doing some research on political signs we decided to add non-opinion sign code. The non-commercial opinion sign definition is used in Indianapolis municipal code.

Sandra Hash- It looks fine to me.

I'll read it so Russ and Evelyn can hear the definition:

Noncommercial opinion sign. A sign, which does not advertise products, goods, businesses, or services and which expresses an opinion or point of view, such as, a political, religious, or other ideological sentiment or support or opposition to a candidate or proposition for a public election. A sign which meets the definition of an on-premise sign, an off-premise sign, and/or an advertising sign, shall not be considered a noncommercial opinion sign.

The reason why I added this to code is because of the political signs. On page 13, temporary signs, I added this section, which covers the condition of the sign. This code was also from Indianapolis municipal code.

Temporary sign. Any sign or sign structure which is not permanently affixed or installed, and is intended to be displayed for a limited period only. Examples of such signs include, but are not limited to, the following: real estate, construction, special event, political, garage sale, home improvement/remodeling, model home and seasonal (holiday) signs. **Condition of the sign add in:** If the condition of a sign becomes unsightly, torn, faded or in the process of decline, the sign shall be considered a public nuisance and litter and will be removed by the Planning Department.

That is the only way we can get rid of damaged and older political signs, once they start getting old.

On page 14, based on the research I sent you on Political Signs:

Several municipalities in the state of Indiana in trouble with the Indiana Civil Liberties Union, so I suggest we strike our political sign code based on the information I've given you. We can allow INDOT to collect political signs that are in prohibited areas.

Sandy Hash- So, you would strike it completely.

Connie Griffin- Yes. I think we will take a step forward as a progressive community.

Terry Baker- One of the things I liked in the political sign research document was the comments on Mishawaka. Mishawaka tried to get an agreement with the political leaders that signs will not be distributed a certain amount before and after the election. If the political parties will go along with this, then we won't have to have an ordinance. We need to see if we can get this kind of an agreement going with them.

Ron Wayt- How long has this code been on the books as it stands now? How many towns have been sued for this? I just don't like political signs out there for six months. There needs to be a time limit on them. I don't want to see these in my neighbor's yard or on the highway, and if it's been in the town code for years, we can be threatened to be sued all of the time. That's common.

Connie Griffin- But, that is what the ACLU is saying, you can't put a time limit on them, because of the Freedom of Speech Act.

Terry Baker- Yes.

Sandy Hash- Carl Salsman did come to a council meeting and the planning and zoning meeting in to talk to us about political signs. The code was added in 2005.

Ron Wayt- Most people will do the right thing.

Dan Swafford- I agree with Ron. Instead of putting a time line on it, we can put a condition on them. When they start looking torn, like you said, and that may fix it.

Ron Wayt- Then, they will just replace it and put in another one.

Dan Swafford- They are about \$10.00 each, they are expensive to keep replacing. I don't know what the answer is.

Connie Griffin- Based on my research I'm making a suggestion that the code is stricken.

Ron Wayt- We still haven't found out about Indianapolis.

Connie Griffin- The ACLU is getting more active, I can do more research if you like on the issue.

Sandy Hash- When I campaigned I didn't put signs up 30 days before the election and then after the election I pulled all of the signs, but I knew the code, so I was being conscientious by removing them, not everyone knows the code.

Dan Swafford- Now we have absentee voting and early voting, so then the code wasn't good, because they opened up ballots in October.

Sandy Hash- That's what Carl was challenging. He questioned when do you consider the election because of these issues.

Ron Wayt- What's Bloomington'?

Connie Griffin- I'll get that for you.

Sandy Hash- The state highway went through twice and cleaned up along the highway.

Dan Swafford- That was because the signs were displayed in the state right of way.

Connie Griffin- The Planning Dept. didn't remove signs that are in the right of way, since we don't have jurisdiction over those areas.

We will still keep working on these, and we will wait for the director to be here on the evening these are passed.

New additions special promotion-

A permit will be required to display a special promotion sign. This permit will be \$10.00.

(9) ***SPECIAL PROMOTION.*** A non-permanent free-standing sign used as special advertising for not more than two weeks per occasion and not more than four weeks total per year. The SPECIAL PROMOTION sign shall not measure ~~and measuring not~~ more than 24 square feet in sign face area and six feet in height. A permit will be required to display a SPECIAL PROMOTION sign. This permit will be obtained from the Department of Planning Services. A Special Promotion sign permit will be \$10. All legally licensed 501(c) non-profit organizations and schools are not required to pay a Special Promotion sign permit fee.

Sandy Hash- I like the special promotion additions.

Dan Swafford- Can they get this on line.

Connie Griffin- Yes, when they are passed.

Page 17, Exempt Signs, clarified that schools will not be required to pay for a sign permit.

We agreed on time and temperature at a prior meeting.

In the scrolling sign section, we added a new addition. We have a couple of businesses in town Stop and Go Muffler, and the Mexican Restaurant have scrolling signs. I looked up interior scrolling signs, which would fit in a window and not be obtrusive. I think a fair size would be 9x 32, so we do not hurt local businesses, which I know is a concern to Dan. I submitted some research on interior signs to you.

Don Calvert- Do you think the businesses you mentioned would fall in this dimension for a scrolling sign?

Connie Griffin- Yes, I tried to make it large enough to keep them compliant.

Dan Swafford- If you go any larger, the cost is astronomical.

Connie Griffin- On the sign permit fee we clarified that the permit fee is for on-site, new signs. We removed when the sign face is changed, so we can work with local businesses and not hurt their advertising efforts.

When a business does close, it would be nice if they removed the sign. We may want to have them sign a document that states they are aware of the sign removal. The only problem would be with very large signs, such as what you see at a gas station. The sign face would be the only thing that would need changed. So, this is still in work.

The Board of Zoning Appeals, we added back in Conditional Use Special Exemption Variance. This code had been dropped and just needed added back in.

That concludes the code changes for the evening, and if you have any questions please let me know.

Sandy Hash- What about the vaults definition. The definition Ron found was good.

Connie Griffin- I need to add that in.

The last thing that I have, I been placed in charge of stormwater education. I'll be having night and day time presentations. I will be working with the Town's departments, some more than others. The permit is up for review in the fall of 2009.

The first presentation will be a video called "After the Storm." There will be a pre and post test, so I can track the results to see if the program contributes to an increased awareness with water quality issues. The tests will be very easy, the tests aren't meant to be hard or intimidating, it's all about increasing an awareness of water quality.

Sandy Hash- The reason for the tests is to give you a second layer to help retain the knowledge?

Connie Griffin- That's true. We have to grade and evaluate the program, and testing is about the only way I can do that.

Sandy Hash- Will you be talking about recycling.

Connie Griffin- Not so much recycling, but as an example I'll be working with restaurants and citizens about not pouring cooking oil down your sink drain and when you wash your car, wash it on the lawn instead of on the street or go to a car wash, where some water treatment occurs.

Once the program gets started I would like to start "Rain Mail", which will be an e-mail program to send to staff or interested citizens. The e-mail will have stormwater and water quality facts. They will have a short paragraph to read weekly, which will assist with educating, and I won't have to pull staff away as often for programs. I have to work with the community and have presentations at the library and at the local schools. I'll be distributing a survey to the community in the spring of 2009. The survey will be given again after a few years, to see if an improvement has occurred in the community.

Sandy Hash- The Town Council training will need to be changed to Feb. 9, 2009, since we have other issues to handle on Jan. 26.

Connie Griffin- Frank has a training session planned at McCormick's creek in the spring, and I've submitted a few questions to K.K. Gerhart from the commissioners, such as coming before the Plan Commission and the BZA procedural issues, and when we can turn down development. These were both good questions. The date is March 23, 2009 - a Monday. Please sign the sign-up sheet if you would like more information or if you have an interest to attend.

Sandy Hash- The training is paid for through the I-69 grant?

Connie Griffin- Yes. Lunch will be served, at the Inn, and the public is invited, and it will be posted as a public hearing, since all of you will be together, but they will have to pay the gate fee and their lunch. Snacks aren't included, and you can't bring in food. We could always go outside and take a break.

Dan Swafford- We could have a tail gate.

Terry Baker- We will continue the Spring's Valley Condo's until next month.

Connie Griffin- Yes, I don't think the petitioner was ready for this meeting.

Terry Baker- Does anyone have any comments from the Plan Commission?

Anyone from the public.

Privilege of the Floor- Non Agenda Items

Russ Ryle- Why you are discussing codes, I'm questioning what is the status of our rental advisory group, what is the status of that project. I would also like to ask if our codes have a section for unoccupied residential units that aren't occupied for a period of time. We need some

form of monitoring and intervention before we get to a point of the property getting ran down and becoming a safety concern.

Terry Baker- Connie is this covered in the unsafe building law?

Connie Griffin- Yes, I believe so, I'll check to confirm this. We adopted this code from Indiana Code.

The rental ordinance was postponed so the department could work on other more pressing issues. We will continue this very soon along with mobile home parks.

Russ Ryle- We need to approach the codes from a public health and safety concern, we get the most complaints when we go beyond health and safety, not just public opinion.

Sandy Hash- The unsafe building code is enforced by Monroe County Building Dept.

Russ Ryle- Does this cover fire codes.

Terry Baker- Not the fire code, fire codes would be the fire dept.

Russ Ryle- Do we have a smoke detector ordinance? In rentals?

Terry Baker- Yes.

Connie Griffin- I don't think so.

Sandy Hash- The state fire code came down and looked at our code and there was a code update, to get us up to date.

Don Calvert- I think this is for new construction. I don't think this is retro-active.

Russ Ryle- That's my point. When you get into rentals and commercial spaces where the public will congregate. We need something. It bothers me that people don't have a fire and CO 2 detector.

Evelyn Ryle- A question of wording. Some wording needs to be changed so lay people reading the code can understand and not try to get around what the meaning is you are presenting.

Adjournment

Terry Baker- I would entertain a motion.

Frank Buczolich- I make a motion we adjourn.

Dan Swafford- I second.

Terry Baker- All in favor say aye. Adjourned. Meeting Time Ended: 7:00 P.M. Next meeting will be February 5, 2009.

Sandra Hash, President

Terry Baker, Vice-President

Frank Buczolich

Don Calvert

Phillip Smith

Dan Swafford

Ron Wayt

Connie Griffin, Secretary