

September 2, 2010

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, September 2, 2010 in the Fire Department Training and Conference Room located at 5080 West State Road 46. Dan Swafford called the meeting to order at 6:00 p.m. Phillip Smith led the Pledge of Allegiance.

Roll Call: Members present were: Dan Swafford, Don Calvert, Phillip Rogers, Phillip Smith and Sandra Hash. Ron Wayt and Clayton Sullivan were absent. Rick Coppock, Town Engineer, and Connie Griffin, Planning Director, were also present.

Approval of the Minutes – August 5, 2010

Dan Swafford entertained a motion for approval of the July 5, 2010 minutes. Phillip Rogers so moved. Don Calvert seconded. Motion carried.

Monthly Conflict of Interest Statement - None noted.

Old Business

Amend Driveway Standards Code 152.227(B) – Ancillary parking areas not required to be paved.

Connie Griffin explained this is the short and third discussion on code. Ms. Hash suggested a size restriction be placed on the ancillary parking area or access. If the Plan Commission did not want to make any changes at this time, the item could be removed from the agenda. Dan Swafford requested this item be removed from the agenda for a few months. It was the general consent of the members of the Plan Commission to remove this item from the agenda for a few months.

New Business

Smithville Development, 7640 W. SR 46, Ellettsville, IN, Chapel Hill Wilderness, LLC Area, Zoning Classification Industrial 1, Proposed Warehouse Development.

Connie Griffin stated Kevin Potter, Smithville-Certified Civil Engineer were not ready with three aspects of the project: grading/landscaping, drainage and erosion control. These items need to be continued until the October meeting. Phillip Smith made a motion to continue this item until the October meeting. Phillip Rogers seconded the motion. Motion carried.

Deer Run Section 6 Final Plat, amendment request road stub connection.

Rick Coppock, presented a map of Deer Run Section 6 and explained the developer of Deer Run did not want to put the road stub connection in section 6. He added the current ordinance allows the Planning Director to sign the final plat. It should be that the Town Council approves and signs the final plat. After the Plan Commission reviewed the map and discussed the code requirements, Sandra Hash made a motion that the stub road be constructed as originally platted for Deer Run Section 6. Phillip Smith seconded. Roll Call vote: Dan Swafford – yes; Don Calvert - yes; Phillip Rogers – yes; Phillip Smith - yes; Sandra Hash – yes. Motion carried 5-0.

Planned Unit Development (PUD) Code Amendments

Connie Griffin, Director of Planning, the PUD revisions to the current code were minimal. Revisions were mostly clarification for administrative proceedings, i.e., applications have enough information to make this type of zoning alteration or grant a PUD for higher density purposes. Two hearing notices were listed in two local newspapers. What the Plan Commission needs to keep in mind with a PUD, is if the Town is giving them something then they should be giving something back. A lot of times with a PUD, we will request an open space or a public park area and this power is given in our current code. A copy of the application was provided to Plan Commission members. This application begins by asking if it's a PUD creation or a PUD modification. A PUD modification has been done with Autumn Ridge and the procedures listed are what would be followed. The actual application is four to five pages long, makes certain they understand they must provide the correct information and that they have financial responsibility to place the public hearing notices. There is a declaration of consent to be provided at the beginning, i.e., right of entry as with Cedar Bluff Gardens so the site can be inspected and photographs be taken. If the Plan Commission later learns that incorrect information was provided the PUD can be voided. The application is actually a multiple checklist based on our current code. The application has zoning information, legal descriptions requested, current zoning or reclassification of zoning, adjacent property uses and zoning, lot sizes, how many phases, and traffic impact. Also presented was a development checklist which requests more developer information, areas for dates for preliminary and final plat approvals, Board of Zoning Appeals (BZA) area for variance request and a signature area for town supervisor approval. There is also an Ellettsville Town checklist to be used in the Smithville development review. It was suggested to remove Darla Brown's name from the checklist and list only town attorney on the planning commission recommendation portion of the form. The site regulation checklist is based on Code 152.180.

Don Calvert suggested using a phrase or word other than power in the application and checklists, perhaps authority or authorized by code.

Conflicting Land Uses and Zoning Classifications Enforcement Updates/Discussions

Connie Griffin, Director of Planning, this topic will also cover the Planning Department updates. On April 8, 2008, a letter was sent by the former director to Clifton Bell who lives on 703 West Temperance Street. Mr. Bell's property is zoned R-1. Ms. Griffin noted Code 152.003 Permitted Land Usage, gives the director the ability to state there is hardly an indistinguishable intensity of use to make zoning acceptable in an area. The properties located on the sides of Mr. Bell's property are zoned commercial and to the south are single family/residential and to the north are some commercial properties. The use of Mr. Bell's property is classified as a salvage yard. On Mr. Bell's property there is storage and possession of two or more inoperable vehicles. This is a misuse of a Residential-1. Photographs of Mr. Bell's property were presented. Also noted is a misuse of parking. Mr. Bell was cited for a violation of parking by Craig Davis this date. This has been an issue for several years. There is a possibility that an administrative appeal will be filed. Ms. Griffin would like to establish a timeline for the clean-up of Mr. Bell's property. Mr. Bell has advised the Planning Office that he had an agreement with the former director to permit the storage and possession of vehicles. Ms. Griffin could find no documentation to verify Mr. Bell's agreement with the former director. Mr. Bell would have to have a special

exception for the current use of his property. Mr. Bell's use of his property next to residential properties is a public nuisance as it could effect their property values should they want to sell their properties. Ms. Griffin is seeking a fair schedule for clean-up of Mr. Bell's property by the Plan Commission. Phillip Rogers suggested Mr. Bell should have property inspections every 30 days. Ms. Griffin thinks 90 days is a fair time frame for Mr. Bell to clean-up his property. Non-compliance by Mr. Bell would be a violation of Code 152, which permits daily fines. Dan Swafford asked Mr. Griffin to draft a letter to Mr. Bell to be signed by the Plan Commissioners. Dan Swafford stated the letter should encourage all violations not just the vehicles.

Observed Code Violations Updates/Discussion by Connie Griffin, Director of Planning

This is about a business whose name will not be mentioned at this time. It is a commercially zoned property also being used as a salvage yard, junk yard and scrap metal processing facility. Code 152.296 requires that it have a special exception to be able to operate in this matter. This property is also located within 1,000 feet of a flood plane. No salvaging license has been issued for the property. This is a zoning issue and a letter has not been drafted. Ms. Griffin would like to write a letter from the Plan Commission asking for a site inspection and giving a 24 hour notice. During the inspection, the site would be photographed. Dan Swafford stated he was by the property today and they were backing up more dumpsters. Ms. Griffin showed photographs taken of the property on July 19, 2010, May 13, 2010 and from 2009. On October 9, 2009, Ms. Griffin received a telephone call that she needed to see what was going on at the property so she took her camera. They were hauling dirt to the property and it is a flood plane issue. No grading permit had been issued through the DNR or the Town. Dan Swafford stated he had received a telephone call from a residence near the property about black smoke. It appeared to Dan when he went by that they were burning insulation off of wiring. The Planning Department has received at least three to four complaints that were not of Town staff, Council or Plan commission. Phillip Rogers suggested that Department of Natural Resources (DNR) be involved. Ms. Griffin advised DNR is involved but they are indecisive about what to do about the situation and are trying to determine if they have any authority. The property is zoned a C-3 and should be an I-1 special exception.

114 E. Chester has been turned over to the attorney. This property is not a safe building structure. It has access into the home through the garage, back patio door, the crawl space is open, tall weeds, limbs and branches on the property. There has been no action taken by the homeowner to secure the property. This has been submitted to the Town Attorney.

409 Vine Street is still being considered to be purchased by the Town. They are looking into a hazardous material, lead paint and asbestos inspection. Monroe Bank will not pay for any of the inspections. The Town Council will have to give her the direction to seek an inspector or not purchase the property. Dan Swafford wants to act quickly on this property so it can be bought and tore down.

Lenzy Hayes trailer park on August 26, 2010, a letter was delivered to Lenzy Hayes, owner of a trailer park, when the Indianapolis Health Inspector and Connie Griffin went to this property. The license for the trailer park has expired. There were multiple

violations on each lot. Pursuant to Code 93.01 Disease Control, Ms. Griffin issued a ten day abatement for September 10, 2010. Removal of excessive weeds and vegetation, a ten day abatement for a violation of Code 93.17(a) and 93.16(a)(b)(c) Public Health Nuisance, a ten day abatement as well. Photographs were shown to the Plan Commission. After the ten day abatement, litter can be up to a \$1,000 fine. This fine will be used to seek compliance. The state health inspector gives the property owner 30 days to comply and then they go back to the property to check status of the improvements.

Sign violation, in October, there will be an administrative appeal for a sign violation in Eagles Landing. On March 25, 2008, an individual was issued a sign permit for no cost. The individual has now moved to 307 W. Temperance Street and is now required to pay the sign permit fee.

Cedar Bluff Gardens, there was an administrative appeal which upheld the Planning Director's decision. The signs have been corrected but there is still trash, debris and tall grass and vegetation. There are photographs to verify the same and the matter has been turned over to the Town Attorney.

Animal Ordinance

Connie Griffin provided the Monroe County Code and the City of Bloomington Code for next month's meeting. Monroe County is the Town's enforcing agency for animals. Don Calvert stated the Town should mirror Monroe County for consistency and enforcement.

FEMA Code Adoption

On June 17, 2010, Connie Griffin received a letter from FEMA stating the final flood elevation determination for the Town has been completed. The map amendments will be issued on December 17, 2010. The Town did not request any changes to the base flood elevations. A public hearing notice has been issued for the October 5, 2010, meeting. The Town is required to adopt their code and the ordinance has been provided to members of the Plan Commission.

Developments/Letters of Credit by Sandra Hash and Connie Griffin.

Sandra Hash had asked the council to give the authority to maintain the letters of credit to the Planning Department because they are closely tied to the building permits. In May, letters were sent to builder/developers and only one has responded, Joe Smith, who is building Litten Estates. All others have been called and advised their letters of credit have expired. If letters of credits are not renewed, no building permits will be issued. It was decided the attorney should send letters to developers fifteen days before their letters of credit expires advising them to renew or the letter of credit is drawn down.

Russ Ryle suggested the Plan Commission needs to codify the procedure for the attorney to have a form letter under their signature to send to the appropriate party 35 to 45 days before any letter of credit or bond expires. This letter will state 15 days before the letter of credit or bond expires, the Town Attorney is going to notify the bond holder the Town is calling in the bond.

Connie Griffin is in agreement that the letters of credit/bonds need to be transferred to the Planning Department. Ms. Griffin will issue a public hearing notice to change the code through the Plan Commission first in October. A public hearing notice will then be issued for the first reading and to Town Council for two readings. Ms. Griffin will develop the procedure discussed at this meeting and have them ready for the October meeting. As well, all information will be forwarded to Darla Brown, Town Attorney.

Metropolitan Planning Organization Transportation Improvement Programs Amendment by Connie Griffin, Planning Director

There are six to seven properties heading toward Smith Pike which will be sent voluntary annexation information. These commercial establishments already receive the Town's services. Ms. Griffin will send Plan Commission members an email listing the names of the properties once she has all necessary information. She will also have the information for the meeting in October.

The Transportation Improvement Program Amendment is for September 10, 2010, and that will put Heritage Trail back on the MPO's transportation improvement program listing and then the Town can start their environmental review. The funds the Town would use from the grant would then basically be from the state. The state knows the Town is going to draw upon that money and the Town can use its matching funds through appropriate INDOT protocol. If the project was to start now, the Town would be responsible for all expenses incurred. The environmental study will take approximately two months. There may be design features available by the end of this year.

Privilege of the Floor – non-Agenda Items

Phillip Smith wanted to discuss Smithville's property. The property is in the Town, but is not being completely serviced by the Town's utilities. Smithville gets water from Bean-Blossom Patricksburg and if they use the Town's sewer, there's no way to bill them. Connie Griffin advised she was told by a Town Council member if it is not in the Planning Department's code area, the code would be revised by that particular supervisor. In this case it would be the utility supervisor who would need to come before the Plan Commission to make the code change. Russ Ryle commented the issue exceeded the limits of the authority of the Planning Department and may exceed the limits of the authority of the Town. There are certain territorial restrictions from a water stand point as to who serves some areas adjacent to the Town. The Town has the ability to annex these areas. Then it will become an issue of whether it's Eastern or Northern's service area for water. Dan Swafford agreed territorial issues could become a problem and have been a problem. Phillip clarified he was talking about new development and not existing buildings. Phillip Rogers stated on the east side, the Town went into a Northern area and the State Regulatory Commission on Utilities ruled in the Town's favor. If the building was in the Town, water and sewer could be run to it regardless of what other water authority was present on the property.

Adjournment

Dan Swafford entertained a motion to adjourn. Phillip Rogers made the motion to adjourn. Phillip Smith seconded. Dan Swafford adjourned the meeting at 7:56 p.m. The next meeting will be October 5, 2010 at 6:00 p.m.

Dan Swafford, President

Ron Wayt, Vice President

Sandra Hash, Secretary

Don Calvert

Phillip Smith

Phillip Rogers

Clayton Sullivan