

April 5, 2012

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, April 5, 2012, 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, President; Terry Baker, Vice President; Don Calvert, Phillip Rogers, Phillip Smith, Russ Ryle and Sandra Hash, Secretary. Connie Griffin, Director of Planning, was also present.

Approval of the Minutes – March 1, 2012

Dan Swafford entertained a motion for approval of the March 1, 2012 minutes. Phillip Smith so moved. Terry Baker seconded. Motion carried.

Old Business

Planned Unit Development Code Amendments Ellettsville Municipal Code

Connie Griffin, Director of Planning – At the last meeting there were a few minor changes to the District Intent section, §152.276. This section has been revised to state, *“The purpose of these regulations is to provide greater design flexibility in the development of land when consistent with the comprehensive plan and the intent of the zoning and subdivision control ordinances. A Planned Unit Development should not be used if the proposed development can be created using established zoning districts and development standards. The intent of the PUD is to promote the land’s most appropriate use; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and Town services; to preserve the natural, environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions.”*

The other changes are in §152.282(A), *“The plan shall be prepared in pen or computer aided drafting software . . .”* and §152.282(A)(2), *“The names, addresses . . .”*

She received an email stating the following, *“A Planned Unit Development may not be used to permit a non-conforming usage within the existing zoning district’s limitations. Applications for non-conforming usages are handled via a request for zoning change under section(s) . . .”* She believes this is covered within the whole document. If the Plan Commission prefers this language it is something that can be added with the same verbiage. Under the District Intent section it states in the ordinance, *“The intent of the zoning and subdivision control ordinances.”* It is consistent with the Comprehensive Plan and the intentions of the subdivision control ordinances. *“A Planned Unit Development should not be used if the proposed development can be created using established zoning districts and development standards.”* Section A states *“. . . specifically reflect the policies specific to the neighborhood or zoning ordinances in which the planned unit development is to be located.”* There are also codes within this that state, *“Provide a public benefit without deviation from the standards of the established zoning ordinances”*; *“. . . a range of uses permitted in the . . . zoning district”* and *“Specify any limitation applicable to the planned unit development zoning district.”*

Under Permitted Uses it discussed *“The permitted uses in a planned unit development district ordinances are subject to the discretion and approval of the Plan Commission and Town Council.”* It further talks about *“The permitted uses in a planned unit development district ordinance are subject to the discretion and approval of the Plan Commission and Town Council.”* As well, it states *“The permitted uses shall be determined in*

Plan Commission, April 5, 2012

consideration of the Ellettsville Comprehensive Plan and the existing zoning district designation of the area being rezoned to a planned unit development, the land uses contiguous of the area being rezoned to a planned unit development, the land uses contiguous to the area being rezoned to a plan unit development . . .”

Under Development Standards, it also discusses it has to be consistent with “*the existing zoning district designation.*”

She will be glad to revise the code and add a similar section as requested in the email, but in her opinion it is covered but it is open for discussion.

Terry Baker - Doesn't think it is necessary to add the section because it is already covered in the verbiage in some of the other subtopics.

Dan Swafford – Agrees with Mr. Baker but thinks it should be reviewed by the Town Attorney. Ms. Griffin commented she sent an email with the language to the Town Attorney.

Russ Ryle – He's the author of the email with the additional language. His thoughts on putting the specific language in the revision were to delineate between using a request for a PUD variance or a rezone. If someone wants to effectively avoid going through rezoning then they just file for a PUD because it effectively rezones one section.

Dan Swafford – Sees Mr. Ryle's point but thinks it is something to be run by the Town Attorney and get back to it. Mr. Ryle stated his motivation is surrounding property owners may think they have a C-3, R-2 or whatever and if somebody wants to effectively put a commercial operation in the middle of it then the mechanism is to go through rezone. Mr. Swafford stated Mr. Ryle brings up a good point about the former redevelopment commission who prepared the Comprehensive Plan. The Comprehensive Plan needs to be updated. Mr. Ryle commented this needs to be done within the year, if at all possible, because of the protection it gives to the Town of Ellettsville in controlling its density. Mr. Swafford asked Ms. Griffin to run this by the Town Attorney and bring it back to them next month.

Follow-up Kocolene Marketing, LLC – Site Plan Amendment Fast Max Drive-Thru Window, 4724 West State Road 46, Bloomington,

Connie Griffin, Director of Planning – Kocolene was previously granted a conditional approval and was to make some changes and submit a site plan with those revisions. A site plan was presented showing an additional handicap parking space next to the drive-thru area and the four parking spaces to the north were eliminated. A letter from Rick Coppock dated March 30, 2012, stated he had reviewed the drive-thru addition and the proposed plan to add a drive-thru to the side of the building will work as long as four parking spaces are removed along the north curb lane.

Don Calvert – Asked how many handicap parking spaces there are. Ms. Griffin replied two.

Dan Swafford entertained a motion to approve Kocolene Marketing, LLC site plan amendment Fast Max drive-thru window location, 4724 W.S.R. 46, Bloomington, Indiana. Phillip Smith made a motion to approve the Kocolene Marketing amendment to the drive-thru in Fast Max. Terry Baker seconded. Roll Call Vote: Dan Swafford – yes; Terry Baker – yes; Don Calvert – yes; Phillip Rogers – yes; Phillip Smith– yes; Russ Ryle - yes and Sandra Hash - yes. Motion carried 7-0.

New Business

Greenbrier Meadows Subdivision Phase II, 17.44 Acres, Preliminary Plat Approval, 29 Lots with Final Plat Approval, Daniel Butler representing Robinson Construction

Connie Griffin – This is Robinson Construction's Greenbrier Meadows Subdivision Phase II, 17.44 acres. They are seeking preliminary plat approval. There are 29 lots with final plat approval for Lots 46, 47, 48, 59

Plan Commission, April 5, 2012

and 60. Daniel Butler of Bynum Fanyo is representing the plan. There have been two separate meetings for supervisor's review and several of the Plan Commissioners have gone out to the site and met with Rick Coppock as well as Daniel Butler. They had on-site inspections and there has been discussion on silt fencing repair and some infrastructure changes for some sidewalks and trees. They have discussed the mowing of the development in the spring. This was something Town Council had requested last fall. The certified return receipts have been provided and the fees have been paid to the Clerk-Treasurer. The Planning Department received a request from Bynum Fanyo on March 16, 2011, to be placed on the agenda. A grading permit in the amount of \$500 will be issued for the 17.44 acre site. The Town charges \$100 per acre up to a maximum of \$500. Driveway permits will be required for each of the structures and will coincide with the issuing of the building permit. The legal was published on March 21, 2012, for the purpose of the preliminary and final plat approval for Greenbrier Meadows Subdivision. Maps depicting county zoning, a planned unit development, estate residential and agricultural and rural residential zoning were provided to the Plan Commissioners by email. This was with site development being R-1 to the north, the other was county and the site in discussion is Residential 3. Floodway, floodway fringe and elevations maps were provided to Plan Commission members.

Daniel Butler, Bynum Fanyo – Also representing the project is Mike Carmin, who is also in attendance. The property is at the corner of Ratliff Road and Deer Run Road which includes 29 lots for development and five for final plat approval. All roads on the plans have 60' of right-of-way, 24' roads, 6' tree plots and 5' sidewalks with drainage and utilities being proposed from the beginning.

Don Calvert – Asked if they don't intend to put trees in the tree plot. Mr. Butler replied that was correct. They were asked to move them to the back of the walk in the easement and they will have utilities in the tree plot with grass.

Terry Baker – Asked if there have been any traffic studies on Ratliff. They may want to consider a blister for a left hand turn so people can get around them because traffic moves pretty fast on Ratliff. Mr. Butler replied they have done a traffic study for a new entrance drive they are proposing off of Ratliff Road. This includes a Indiana Design Manual. They did a full line of site distance analysis and it is approved for a 35 mph speed zone which is currently posted on Ratliff Road. Mr. Baker asked if there will be a blister for people making a left hand turn into the addition so people can get around them. Mr. Butler replied they are not proposing any with this development due to it being the type of road it is. They didn't find any need or requirement by the state so they have not proposed any at this time. There is a fully designed drainage system that will allow for the entire site to be below the current drainage that is being proposed off the site. A detention pond will be proposed with this project.

Dan Swafford – Asked where the detention pond will be located. Mr. Butler replied it will be located on the southwest corner and will hold all flow from the entire site. This will not only detain the water but provide the necessary stormwater quality required by the Town of Ellettsville. Rain water runoff will pond there during large rain events classified as a 100 year storm. Don Calvert asked how deep the retention pond will be. Mr. Butler responded the top of the casting for the structure will allow it to pond up in the pond 4 ½ feet above the bottom. Mr. Calvert asked if it will be fenced to keep children out. Mr. Butler responded they aren't proposing that at this time. Sandra Hash commented it shouldn't retain water. Mr. Baker asked if it wasn't a real pond but a tapered area. Mr. Butler answered that was correct and it's not a retention pond but a detention pond so it will not retain any water unless there is a very large rain event. They don't anticipate water staying for very long. It would control the runoff at a reasonable rate.

Connie Griffin – Has met with them and they have resolved the outstanding issues.

Dan Swafford entertained a motion to approve Greenbrier Meadows Subdivision Phase II, 17.44 acres, Preliminary Plat Approval, 29 Lots with Final Plat Approval on Lots 46, 47, 48, 59 and 60. Phillip Smith made a motion to approve the Greenbrier Meadows Subdivision Phase II project 17.44 acres. Phillip Rogers seconded. Roll Call Vote: Dan Swafford – yes; Terry Baker – yes; Don Calvert – yes; Phillip Rogers – yes; Phillip Smith– yes; Russ Ryle - yes and Sandra Hash - yes. Motion carried 7-0.

Planning Department Updates

Statistics and Monthly Tracking Reports

Connie Griffin – The statistics are not ready. They will be prepared as soon as possible and forwarded to Plan Commissioners by email.

Code Enforcement Officer

Connie Griffin – They have been searching for a code enforcement officer and at this time they have not made a determination of the position. Three candidates were interviewed and one person was selected. That particular person had another job offer. The Town Council liaison and she will be discussing this after the meeting. Basically, they are complaint driven and have been so for several years. This may not be the best approach to code enforcement but it's the best they can do with limited staff.

ADA Transition Plan

Connie Griffin – There was a public hearing announcement and formal presentation before the Town Council on March 12, 2012. It was determined the ADA Coordinator is the Director of Planning and the Assistant ADA Coordinator is the administrative assistant of the Planning Department. A grievance procedure and notice was posted in all Town owned buildings. They are moving along at a good pace and they have the blessing of the Bloomington-Monroe County MPO. The MPO is very satisfied with the Town's progress. The Town has until the end of this year to get it completed. They will be meeting with Kirk Babcock of the Monroe County GIS and he will provide training on the new software so they can do some mapping. She is very proud of the administrative assistant, Denise Line, as she is doing an excellent job on the ADA Transition Plan.

Privilege of the Floor – Non Agenda Items

Jeff Harrington – and his business associate, Lance Ringler, are lifelong residents of the area. They are opening Josie's Self Serve Frozen Yogurt next to China Star Buffet. They are requesting permission to put a permanent bench in front of the store. Between the China Star Buffet and the railing is 7 ½' and between their front door and the actual pavement is 10' flat. There is 8' by the beam. They are proposing a 6' or 8' park bench. It is a steel structure with a rubber coating. It will either be green or black. Ms. Hash commented it is private property as long as it meets building codes and doesn't think the Plan Commissioners would have any say in it. Mr. Harrington replied Rubicon preferred that they speak to the Planning Department and Connie Griffin asked that they make their request to the Plan Commission.

Dan Swafford – Asked if it is going next to the building. Mr. Harrington replied it will be in front of the window to the right. Mr. Swafford advised as long as he runs it by Rubicon and make sure they have their approval the Plan Commission doesn't have anything to say about it. The Town's clearance is there so he doesn't see a problem. Ms. Griffin commented this is basically a courtesy visit.

Jeff Harrington – They are looking for an opening date of May 5, 2012. This will provide a healthier dessert option for the community. Mr. Baker thinks the bench is a great idea. Mr. Harrington asked if they had any issues on a small three foot trash receptacle or portable table that they would take in and out on a daily basis. Mr. Swafford advised it was fine as long as Rubicon approved and they left a 3' walkway. Mr. Harrington explained they will have six yogurt machines and each machine has two flavors. They will have sugar free and fat free frozen yogurt. Lance Ringler explained there is no high fructose corn syrup in the yogurt and it all has pure crystalline fructose so it is much healthier. The motto of the franchise is "Dessert is Growing Up". There is a sugar free flavor sweetened with stevia. There is close to 300 flavors and it is self serve. The cost is 39¢ an ounce.

Dan Swafford – Asked if there was any updates on the church. Ms. Griffin replied she has been reviewing the file and put it in chronological order. She has gone out on two separate rain events and has not seen soil

Plan Commission, April 5, 2012

washing onto the road. She did not go out this morning because she wasn't in Town until 9:15 a.m. If there was any wash on the road this morning she did not see it. There have been multiple inspections that are considered routine and followed-up by Rick Coppock. Three letters about violations were sent to the church and they have been corrected. There is one area on the east side of the entrance that could be backfilled but it is not a high priority because soil is not washing onto the road. The site itself is not moving along at a speed the Town would like to see. It is her and Rick Coppock's opinion the church is in compliance. There are a few things that could be worked on but the over all goal is to make sure there isn't any soil washing out onto the highway. Ms. Hash asked if the soil around the trees have been removed. Ms. Griffin replied yes it was removed. Ms. Hash asked if the development is stalled. Ms. Griffin responded yes. Mr. Swafford asked if any of the trees had died. Ms. Griffin answered she had not inspected the trees. Mr. Swafford stated he and Rick Coppock had looked at the trees about a month ago and it looked like most of the trees were budding out except for six that may be dead. Rick Coppock returns from vacation next week and they will inspect the site. They are looking for 70% vegetative cover by code but it is April 5th so there may be a requirement for more seed. Mr. Swafford commented his major concern is along the back wall where they dug into the cliff even though it's not going to drain onto the highway. He doesn't want to see it erode away.

Russ Ryle – Asked what the current status of inspections and activity on Chad Stephens' property. His request for a PUD was denied and it was his understanding that based on that denial he would no longer have a salvage yard license from the State of Indiana and his salvage yard activity would cease. Ms. Griffin replied a certified letter with a right of entry form was sent at the beginning of March and it was not returned. The Town Attorney will be preparing a different document to allow the Town to get back on to the site. As a courtesy, they wanted to let Mr. Stephens know they were coming to do a final inspection to make sure that all uses not approved have ceased. Mr. Ryle asked if enforcement is pending. Ms. Griffin said that was correct.

Adjournment

Dan Swafford entertained a motion to adjourn. Phillip Rogers made a motion to adjourn. Terry Baker seconded. Dan Swafford adjourned the meeting at 6:43 p.m.

Dan Swafford, President

Terry Baker, Vice President

Don Calvert

Sandra Hash, Secretary

Phillip Rogers

Phillip Smith

Russ Ryle