

March 1, 2012

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, March 1, 2012, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Phillip Smith called the meeting to order at 6:00 p.m. Sandra Hash 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, and Rick Coppock, Bynum Fanyo, Town Engineer, were also present.

Approval of the Minutes – February 2, 2012

Dan Swafford entertained a motion for approval of the February 2, 2012 minutes. Don Calvert so moved. Terry Baker seconded. Motion carried.

Old Business

Planned Unit Development Code Revision Discussion

Connie Griffin, Director of Planning – A Notice of Public Hearing has been submitted to the Ellettsville Journal. On the final reading the changes to the Planned Unit Development will be reviewed one more time. Under §152.276 a few statements have been added. Under District Intent, the following will be added: *“The purpose of these regulations is to provide greater design flexibility in the development of land when consistent with the comprehensive plan and intent of the zoning and subdivision control ordinances.”* In addition, the following will also be added: *“A Planned Unit Development should not be used if the proposed development can be created using established zoning districts and development standards.”* The final reading will be April 5, 2012, and the attorney will have the ordinance prepared for that meeting.

New Business

Kocolene Marketing, LLC – Request for Amendment Fast Max Drive-Thru Window Location, 4724 W. S.R. 46, Bloomington, IN 47404, Stephen Goins Representing Kocolene Development Corp.

Connie Griffin, Director of Planning – Last year Kocolene was looking at a drive-thru that would go behind the Fast Max and then to the west side of the building where the Tobacco Barn is located. Kocolene has decided not to do this and they are proposing to move the drive-thru window to the east side of the building. The specs and site plan were presented to the Plan Commission.

Stephen Goins, Kocolene Development Corp. – The drive-thru window was relocated due to financial reasons. There will be one curb and a pylon going in to protect the building. The tobacco shop has been closed subsequent to this change. The tobacco shop moved into the convenience store.

Connie Griffin – One of her concerns is the handicap parking space at the end of the store. Will it be moved so someone getting out of a vehicle doesn't have to worry about drive-thru traffic? Mr. Goins replied the last two parking spaces will be removed for traffic to turn into the drive-thru.

Dan Swafford – Since the scope has changed dramatically, have new plans not been submitted for review by the engineer? Ms. Griffin replied, in her opinion, it is not a significant change. This is downsized from the original design and it is more practical. Another concern is will it be marked to direct the traffic. Mr. Goins replied there will be arrows. Ms. Griffin asked if a couple of the employee parking spaces will be removed. Mr. Goins responded three of the back parking spaces for employees will be removed. Ms. Griffin asked if there will be a sign to state no pedestrian traffic on the east side of the building. Mr. Goins answered there will be a driving lane and angled signs to say no parking and it will be well marked.

Phillip Smith – Asked if the drive-thru will be accessed from either entrance of the parking lot. Mr. Goins replied yes, but they will be limiting that access. Mr. Swafford stated he's concerned they don't have a layout for the engineer to review. Something will have to be done to direct the flow of traffic. It is such a large area. Will a curb, island or round-about be installed? Mr. Goins replied no, it will be all pavement. Mr. Smith asked if there will be enough room with trucks unloading fuel. Mr. Goins replied there is enough room because it is 60 feet from where the trucks unload gas.

Russ Ryle – Asked in the diagram what the two round circles are adjacent to the window location. Mr. Goins replied they are for water monitoring. Mr. Swafford asked since there will be cars stopping in that area will it effect stormwater. Rick Coppock replied it will be the same as it is now other than there will be a window. Mr. Swafford stated cars will be stopping and dripping fluids. Mr. Goins responded there is a pass thru window, that is a walk up window, around the corner on the east side in front of the existing handicap space. Mr. Swafford asked Mr. Coppock if he didn't see any problem with the drive-thru window. Mr. Coppock replied he didn't have any problems with it because they aren't changing the grade or anything else.

Don Calvert – Likes the idea of the drive-thru window. It gets people out of the way. Once they go to the window they will go up, turn right and they're out of the way. They won't be shooting through the pumps and back in front of the building.

Russ Ryle – Depending on the vehicles exiting the window, there has been a definite improvement in the overall flow of traffic through the facility.

Dan Swafford – Would feel better if it was written up for issues such as handicap parking. He would rather there be a new plan they could approve and proceed from there. If later on something could come up and there wouldn't be anything other than the old plan. Ms. Griffin asked if Kocolene superimposed the changes on the site plan would that be satisfactory. Mr. Swafford replied that would be fine. He wants to see directional arrows, handicap parking location, the door and clearances. Mr. Swafford asked if he has checked the clearances in the location of dumpster. Mr. Coppock replied the dumpster is behind the building. Mr. Swafford asked if the dumpster will be moved. Ms. Hash replied it will not be moved.

Russ Ryle – Told Mr. Goins if he would update a diagram for the new layout to show the traffic pattern and parking that should take care of it. Ms. Hash explained in one of the photographs it shows where a dumpster would be located if Kocolene took the drive-thru behind the building.

Connie Griffin – Asked if the Plan Commission would entertain a conditional approval on updated plans being submitted within one week.

Dan Swafford entertained a motion to accept the request for amendment of the Fast Max drive-thru window pending updated plans. Phillip Smith made a motion to accept the request for amendment of the Fast Max drive-thru window pending updated plans. Russ Ryle 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.

Development Code Revisions and Amendments Ellettsville Municipal Code – Introduction

Connie Griffin – There will be a public hearing notice and this will come before the Plan Commission in April. There will be a two month review period so the final voting will be at the Town Council meeting in May. She has listened to their comments and hopes to have the corrected codes to use within the existing code.

Some of the suggestions were as follows: A date to have the build-out completed and phasing of the project, engineer certified plans to specs of build-out to be paid by the developer, a purpose and intent statement, subdivision (noun versus verb) clarification which includes a portion of Indiana Code 36-7-1-19, a reference to other statutes and regulations, conflict with other statutes, I.C. 36-7-4-1016 (Judicial Review of Zoning Decisions) and final decisions of zoning administrators under I.C. 14-28-4-18.

Effective Term of Primary Approval. Primary approval shall be effective for a maximum period to be determined by the Plan Commission, beginning on the date of notification and ending with the petition for secondary approval. Upon application by the petitioner the Plan Commission may grant one or more additional extensions each not to exceed 12 months. Extensions shall each be formally considered in accordance with the procedures for granting the original primary approval.

Phasing of Construction. Where it is in the interest of the petitioner to complete construction of the improvements, required by the primary approval, in phases rather than all at once, the petitioner shall so state in writing to the Plan Commission, along with the petition for secondary approval, and deliver the request together with maps and drawings showing the intended phasing of the project. The Plan Commission may at its option provide secondary approval to each phase as it is built, provided that at no time shall the phasing plan produce an unsafe condition or a utility plan that is not in compliance with the requirements of the primary approval, of Indiana law of this chapter. A phasing plan shall not produce additional cost to any utility over and above the cost that would be incurred if the overall plan was developed at one time.

Secondary Approval Prior to Completion of Improvements. Forms will be added to go along with this process.

Determination of Compliance with Primary Approval. The Zoning Administrator, with the assistance of the Town's Engineer, shall assist the Plan Commission in determining compliance with the requirements of the primary approval. The Administrator shall require a finding that all required public infrastructure has been installed in accordance with the primary approval. The Town may, at its sole discretion, require that any request for secondary or primary approval shall be accompanied by a certificate from a registered professional engineer, or a registered professional architect, attesting to the conditions cited as a reason for the approval. The certificate shall bear the professional seal of the engineer or architect certified to practice in the State of Indiana.

Purpose and Intent. The Town of Ellettsville finds that it is in the best interest of the current and future citizens of Ellettsville to exercise control of land use in all of the territory within its jurisdiction including lands both within and outside of its municipal boundaries.

The Town of Ellettsville, Indiana, hereby finds that it is in the best interest of the current and future citizens of Ellettsville to establish control over the recording and division of lands, the development of lands, the control of land uses, the proper and legal description of said lands for the assessment of taxes, the recording of property purchased or sold, and for the health, welfare and enjoyment of properties by the current and future citizens of Ellettsville. Therefore, the Town hereby establishes the entities, procedures, standards and regulations contained herein, all of which shall comply with principles set forth in I.C. 36-7-4-102, et seq.

She is asking the Plan Commission to review the sections she is proposing to add to the Municipal Code and to email her with any thoughts or suggestions. An updated draft of the code changes will be provided at the next meeting.

Sandra Hash – Thanked Connie Griffin for putting the changes they have been requesting into the Municipal Code.

Remove Planning Department Form Chapter 94: Abandoned, Salvaged and Scraped Vehicles – Ellettsville Municipal Code - Introduction

Connie Griffin – This is a tabled agenda item.

Dan Swafford entertained a motion to table this agenda item. Phillip Smith made a motion to table Remove Planning Department from Chapter 94. Terry Baker seconded. Motion carried.

Planning Department Updates

Statistics and Monthly Tracking Reports

Connie Griffin – This is a tabulated monthly summary. The report will track the Director of Planning's hours and number of incoming/outgoing calls and requests for information. Incoming calls for the Street Department dropped from 20 to 8. Incoming calls into the Planning Department increased from 81 to 91. Outgoing calls increased from 55 to 70. Requests for Information changed from 3 to 4. Daily meetings decreased from 13 to 8. Night meetings decreased from 6 to 3. The Director of Planning hours decreased from 173.75 to 154. Her overall percentage of time year-to-date is 67% in planning/MPO, 9% in grant work, code revision and code enforcement is 24%. Denise Line is the Administrative Assistant and she is requesting that she be classified as the Assistant ADA Coordinator. Ms. Line's planning hours are 79% of her time and 21% is spent on the ADA. There are quite a few hours that go into the ADA Transition Plan. Code enforcement tracking covers yard sale violations, code violations and sign permit issues. Fines collected, cases carried forward and resolved cases are also tracked. Citizen complaints are tracked and at this time the Planning Department is complaint driven. When the new Code Enforcement officer gets going there will be more blanket enforcement. They are also tracking remodels, repairs and new construction comparisons. The department also looks at ADA complaints as well as stormwater complaints. Driveway, grading and demolition permits will also be tracked.

Consideration for Reducing Plan Commission to 11 Meetings (Eliminate: July, August or December)

Connie Griffin – She did some research on this. July, August or December were basically considered vacation months and/or major holiday time. December may be the best meeting to eliminate. December could be reserved for a special meeting if one is necessary.

Dan Swafford – He would like to leave it as is. If two weeks in advance there's nothing on the agenda then they could reserve the right to cancel one of the meetings. He would hate to cancel December's meeting then have something important come up. Ms. Griffin explained this is a procedure the City of Bloomington uses and it gives them a chance to regroup and get some other things finished for the year.

Phillip Smith – Asked if this could be done all year round. Ms. Griffin responded they could but she doesn't think it will happen this year because they have a lot of code changes.

Terry Baker – Thinks it should be a rarity that a meeting be canceled because they need to stay on a schedule. If meetings are canceled then the board is no longer functioning properly.

Russ Ryle – Doesn't see canceling a meeting per se is a problem, but he hates to get out of the habit. He would hate to have 60 days between meetings. Even if there is not a petitioner in front of the Plan Commission there are other things they need to do for the next several years. There are plenty code analysis and revisions they need to catch up on. He is thankful there is not a bunch of development going on right now because for the first time in five or six years there is enough of a break they can look at the code.

Part-Time Code Enforcement Officer Position Closed Today/Process to Select and Interview Three Candidates

Connie Griffin – Today the application process for the part-time Code Enforcement Officer closed. Her liaison, Phil Smith, and she will be reviewing the applications to select three candidates to interview and make their selection. She hopes to have the candidate start on March 9th.

Privilege of the Floor – Non Agenda Items

Russ Ryle – He received the signed copy of his Certificate of Appointment from Sandra Hash. He noticed under the Oath of Office it does not state that he promises to uphold the code of the Town of Ellettsville. This means that technically he has the authority to go off in left field and do what he wants to. He is not comfortable with this. He thinks the Oath should be revised to include, *"I, being duly sworn, upon my oath state that I will support the Constitution of the United States, the Constitution of Indiana and the Code of the Town of*

Ellettsville.” If they want to change the code they have mechanisms for making changes. It has been stated in several cases in the last year by members of the Commission, when you’re on the Commission, they are there to uphold the code. He reiterated this should be in the Oath of Office. The Oath of Office is not in the code. There is no code requirement for an oath. It is a perfunctory habit and is not in the code. Shouldn’t this be addressed?

Sandra Hash – When you volunteer to be on the Plan Commission, Park Board or any function in the Town, it should be an understanding that you’re here to abide of the laws created by the Town. Russ had asked her about it and she saw the Certificate of Appointment that was used by the Redevelopment Commission and she revamped it and thought it was something nice they could do. From this point forward they could start doing written appointments and she doesn’t mind doing this. She certainly doesn’t mind to insert the Ellettsville Town Code in there because she has done this for the Police Department and Police Reserves. The elected officials have a more standard oath that doesn’t have the code of the Town of Ellettsville in it.

Russ Ryle – He did some checking in the Town Code and there is no requirement for a member of the Town Council to take an oath. Ms. Hash responded it is not in Town Code but is a statutory requirement through the state. The oath she uses has been passed down to her from the county level.

Terry Baker – Asked Sandra Hash to send a copy of what she provided to Russ Ryle to all of the Plan Commission members. Ms. Hash will prepare a certificate for all members and send it to them.

Dan Swafford – He would like to see training for Plan Commission members perhaps once a year. A lot of Planning Commissioners are appointed to the position and they have no background in zoning. Any education would be helpful. Ms. Hash suggested they copy the materials from the seminar at McCormick’s Creek and go over it again. It would be good reinforcement.

Russ Ryle – He has submitted the applications for a group membership to the Indiana Chapter of the American Planning Association. He believes the Indiana Chapter of the American Planning Association will be a great resource to not only see how other Towns deal with similar issues but also for training and education. They might be able to get a group of speakers in or go together with some other Planning members and get some training. Ms. Hash advised Monroe County did training one time before and invited the Plan Commission members. Mr. Ryle explained Monroe County has several members active in the Indiana Chapter of the American Planning Association. Ms. Hash stated she had a training session once with Jamie Palmer but she has moved to a different position. That was one of the best planning and zoning trainings and it was through her clerk’s league. She knows Connie Griffin has contact with her and wonders if she would be willing to come do some training. Ms. Griffin replied she probably would.

Russ Ryle – He has been drug into town government defending his property lines which goes back to the sad story of a development which still isn’t completed. It started in 1992 behind him. One of the things that is consistent is the Town has codes and issues to deal with and then they fall apart when it comes to enforcing. Enforcement is the Achilles heel of not only Ellettsville but many towns and state agencies. The Town will be hiring an enforcement person and he is concerned about their well being, Can they look them in the eye and say they really want that person to do their job? He is saying this bluntly because the Town has a poor track record when they start getting some flack from someone who is in violation of Town Code. It is one thing to try and get compliance from compliant people who agree and 98% of the people in the Ellettsville follow the code. It’s the one or two percent outliers that are really expensive headaches in the legal system. If the Town is going to hire enforcement people and have them out there trying to bring the one or two percent people who don’t comply into compliance please make sure, especially at the Town Council level, they’re ready to back them. Don’t just hang them out to dry. This has happened too often in the last four years. If you’re going to hire staff support them because they’re doing their job for the Town. Ms. Hash stated code enforcement is a difficult job to do. Terry Baker stated it can be dangerous. Mr. Ryle commented they’re on borderline dangerous right now. Did anyone see how the Town made the newspaper a week ago Saturday? The

front page of the Herald Times said there were fifteen meth labs at a certain trailer park in Town.

Dan Swafford – He and Rick Coppock attended the I-69 meeting. The Indiana Department of Transportation (“INDOT”) has asked the Town to be a participating agency. INDOT approached the Town Council and they did agree by unanimous vote to be a participating agency and Rick Coppock was nominated to represent the Town in the development of Sections 5 and 6 of I-69. Russ Ryle asked if this is the section from Tapp Road north. Mr. Swafford replied yes it is. Maybe Mr. Coppock could give them monthly updates. Ms. Hash asked if Mr. Coppock made it to the meeting on February 15, 2012. Mr. Coppock replied both he and Dan Swafford attended the meeting.

Adjournment

Phillip Smith made a motion to adjourn. Russ Ryle seconded. Dan Swafford adjourned the meeting at 6:46 p.m.

Dan Swafford, President

Terry Baker, Vice President

Don Calvert

Sandra Hash, Secretary

Phillip Rogers

Phillip Smith

Russ Ryle