

**May 5, 2016**

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, April 7, 2016, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Terry Baker called the meeting to order at 6:00 p.m. Don Calvert led the Pledge of Allegiance.

**Roll Call:** Members present were: Terry Baker, President; Brian Mobley, Vice President; Don Calvert, Pat Wesolowski, David Drake and Sandra Hash. Kevin Farris was absent. Kevin Tolloty, Planning Director, Darla Brown, Town Attorney, and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

### **Approval of the Minutes**

Terry Baker entertained a motion for approval of the minutes for the regular meeting on April 7, 2016. David Drake so moved. Don Calvert seconded. Motion carried.

### **Old Business**

#### **Proposed Changes to Legislative Procedures**

**Kevin Tolloty, Planning Director**, reviewed the change to notification of interested parties wherein it would be two properties deep from the subject property within 500 feet. His only question for the Town Attorney is regarding "all citizens" and "interested parties". He is requesting approval of the changes.

**Don Calvert** asked if the wording under §4.2(i) should be changed to "no more than two properties away" to make it more clear. Mr. Tolloty explained the intent is to include properties that are two properties away but no more than 500' away from the subject parcel. He will make the change requested by Mr. Calvert.

**Darla Brown, Town Attorney**, explained the intention of §4.3, Plan Commission Notice Requirements, is to make it clear that all citizens of Ellettsville are interested parties for purposes of making changes to the Comprehensive Plan but she can understand the concern of how it might be interpreted. Mr. Wesolowski asked if a property owner is not a resident of Ellettsville will they still be notified. Mr. Tolloty answered yes. Ms. Brown added the statute does not include a requirement that all citizens of the community are interested parties. A public notice should be sufficient. Section 4.3(a) will be removed.

Terry Baker entertained a motion to approve the Legislative Procedures as proposed with the amendment of striking Section 4.3(a) regarding the notice and adding "more than" to §4.2(i). David Drake made a motion to approve the Legislative Procedures as proposed with the amendment of striking Section 4.3(a) regarding the notice and adding "more than" to §4.2(i). Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Mobley – yes; Pat Wesolowski – yes; and Sandra Hash – yes. Motion carried 6-0.

### **New Business**

**Preliminary Plat Approval for Hidden Meadow Subdivision, Phase III, 40 Single Family Lots along W. Hidden Meadow Drive (16 acres); Petitioner: Bynum Fanyo & Associates, on behalf of Henry's Fork, LLC; Case No. PC 2016-12**

**Kevin Tolloty, Planning Director**, explained this is the third and final phase of Hidden Meadow consisting of 40 lots. It has gone through technical review and all comments have been addressed. There was a discussion on street trees which are required every 50' in front of the house. Petitioner is requesting a waiver for lots 45 and 46 because they are less than the required 80' width. One lot is 72' and the other is 74', however, houses can still fit on the lots and meet setbacks. There are sinkhole conservancy areas on that portion of Hidden Meadow which shifted the size of the two lots and there isn't any way to get the lots to an 80' width. Staff does recommend approval of the waiver.

**David Drake** asked if anyone remembers why this property is zoned C-3. Mr. Coppock answered when it was annexed into Town they requested C-3 zoning to maximize the use of the property. Mr. Calvert asked if they considered running a road through the property and parallel to State Road 46. Mr. Baker answered they did. Mr. Coppock clarified all roads stub out to the property and would connect to Love Lane. As a continuation of

Phases II and III a portion of the waterlines will be oversized to 12" to get more water to certain areas of the Town and better loop the system for future connections.

**Brian Mobley** asked where the retention pond is located. Daniel Butler of Bynum Fanyo and Associates explained there are two bio retention ponds to the south and sized appropriately for the entire site. Any stormwater runoff will be traveling from north of the property into Karst Conservancy Areas. It will create natural looking facilities to the north that are not to be touched. Stormwater will eventually end up in detention facilities to the south retaining stormwater from their properties to the north plus the improvements they're doing now.

**Pat Wesolowski** asked if it will be a clean detention pond or will there be swale going between homes. Mr. Butler explained they planned for volume purposes to make it a sizeable pond. He has found having a sand filter strip with natural plants to filter some of the oils from the site works the best. The wettest part will still be the bottom of the pond but it will sloped toward the same filter strip causing it not to be soaking wet all of the time. The ponds are to be mowed in the spring and left undisturbed the rest of the year. Ms. Hash asked if they don't mow them because the vegetation helps filter the water. Mr. Butler answered that's correct. Studies and other environmental reports have come out that the root system of those types of plants help soak up contaminants and keep back soil and oil from automobiles that might come down the pipes. Ms. Hash asked if the 1.6 acre parcel is part of their property. Mr. Butler replied it will be a sink hole conservancy easement and they believe there may be some Karst geology in it. They're conserving it so it will not be disturbed. It is part of their property but designated not to be touched or owned by any of the homeowners. Ms. Hash mentioned there is a .62 acre lot and asked if it will also have a sink hole conservancy easement. Mr. Daniel answered yes and they will not build on the lot.

**Terry Baker** asked if they only mow the retention pond once a year will it be in conflict with the Town's ordinance on tall grass. Mr. Tolloty thinks there may be an exception for areas that are to remain wet throughout the year. Mr. Baker is concerned nearby residents may not want to mow their yards because of the retention pond not being mowed. Mr. Coppock replied the old detention ponds used to have pipes in and out when water quality treatment did not have to be provided. Now detention ponds are water quality ponds and the plantings are there to treat the first flash off of the roads. They store so much water before any starts to go out. Water comes in and fills to a certain level and the first flush removes metals and oils out of the first runoff from the road. Then those are absorbed by plants which are a function of the stormwater system and as it fills up other water runs off into orifices in the out control structure which is a box with different sizes of openings. As the storm intensity increases it goes through each one of the orifices in the box but it still detains it to the level of two, five and ten year storms and so on. As for the mowing ordinance the plants are not a yard area they are a water quality treatment function. Ms. Brown added the nuisance section of the Town code defines weeds and rank vegetation as not including shrubs, trees, cultivated plants or vegetation planted for useful or ornamental purposes or agricultural crops. §93.17 discusses removal of excessive weeds and vegetation and it growing to the extent it is detrimental to the public health and constitutes a nuisance.

**Pat Wesolowski** asked how the letter of credit is derived and the amount is determined. Mr. Tolloty replied it is done before they enter into the final plat. There is a formula for pavement, linear feet of sidewalk, trees and signs and it includes a contingency. Mr. Mobley asked if the retention ponds will have fencing. Mr. Daniel answered in the past they have recommended to the homeowners association ("HOA") that they mow it up to the slope where the pond goes down from the yard and they don't recommend fencing unless the HOA wants it. Mr. Mobley is concerned about children drowning. Mr. Wesolowski asked how deep the retention ponds will be. Mr. Daniel replied they don't want them any deeper than 4' which will protect children from drowning.

Terry Baker entertained a motion for preliminary plat approval for the Hidden Meadow Subdivision, Phase III, 40 single family lots along West Hidden Meadow Drive. David Drake made a motion to give preliminary plat approval for Hidden Meadow Subdivision, Phase III. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Don Calvert – yes;

David Drake – yes; Brian Mobley – yes; Pat Wesolowski – yes; and Sandra Hash - yes. Motion carried 6-0.

Terry Baker entertained a motion for the waiver of the two lots that will not be as large as Town requirements. David Drake made a motion to approve the waiver for Lots 45 and 46 in Hidden Meadow Subdivision, Phase III, in regards to the lot width not meeting code as shown on the preliminary plat. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Don Calvert – yes; David Drake – yes; Brian Mobley – yes; Pat Wesolowski – yes; and Sandra Hash - yes. Motion carried 6-0.

**Sandra Hash** asked if there is an area for a playground in the Sinkhole Conservancy Easements. Steve Emery explained there are two big areas that will be conservancy areas the HOA will own and be responsible for. If the HOA wants to put in picnic tables, swing sets or whatever else they could because it rarely gets wet. He doesn't think it could be a formal park but could be a common area to be used however they want. At the far west end of the subdivision there is a big detention pond with woods to the west of it that could have a potential use. As developers of the land they don't have any plans to formally put in equipment because it is beyond their expertise.

## **Planning Department Updates**

### **Sign Code Revisions**

**Kevin Tolloty, Planning Director**, reviewed potential changes to the sign code. For temporary signs they issue permits two weeks at a time for \$20 with no limit for the year and the size can vary. His thoughts are to allow 30 days for temporary permits for a cost of \$40, with a maximum of four permits a year or 120 days, limit the banners to two per permit for \$60 and have a maximum size of 32 s/f. Mr. Wesolowski asked what will be done if a non-profit wants to put up a banner. Mr. Baker answered non-profits are exempt. Mr. Tolloty added permit fees are for commercial enterprises. Non-commercial opinion signs or political signs should be limited to 12 s/f with no limit. Temporary commercial signs would be limited to 6 s/f and under with a maximum of two per parcel for signs such as real estate for sale signs. The proposed changes apply to all zoning districts. Mr. Wesolowski asked, for example, what happens if a fireworks company comes in for a temporary sign can they only have 6 s/f. Mr. Tolloty answered those would be exempt signs. Mr. Baker stated 12 s/f applies to non-commercial but the fireworks place would be commercial. Mr. Tolloty explained they could have two six square feet signs for no cost and no permit required. For a larger temporary sign they could do 32 s/f banners with a permit. For unique circumstances they can work with them so they're covered under one permit.

**Brian Mobley** asked if someone is building a store and they're looking at 60 to 90 days before they're operating. Will the new requirements only allow them to have banners up for 30 days? Mr. Tolloty replied the problem is if they let them have the banner for three to four months at a time they would have to let any other business put one up for the same amount of time. Ms. Hash commented the current regulations requires all changeable copy signs to go through Plan Commission review. Are these the signs with removable letters and what does this mean? Mr. Tolloty answered they're both electronic and manual reader boards. Ms. Brown noted the criteria for determining whether or not the permit will be denied for that type of sign needs mentioned in the Town code. Ms. Hash stated when a business changes owners and there is already a pre-existing sign but they only want to change the facing she doesn't think they should be charged for it. Mr. Tolloty said the code states this but he has been waiving the cost for using an existing structure. Mr. Baker agreed. Mr. Tolloty noted changeable copy signs take Plan Commission approval and he would like to move them, excluding electrical, to being permitted without approval. He wants to break the electronic signs down by zoning district with a certain size, brightness and change rate. Electronic signs proposed between the one-way pairs would have to come before the Plan Commission because it is a highly populated area. Mr. Wesolowski asked if, for example, Arby's gets a permit than the Planning Department is saying it's okay so why do they have to come before the Plan Commission. Mr. Tolloty explained the way the ordinance is written if they want to do a changeable copy sign it has to have Plan Commission approval. Mr.

Wesolowski thinks if the size is to their liking and in accordance with the code he doesn't know why it has to come before the Plan Commission.

**Kevin Tolloty** summarized he is basically looking for how many days a permit should be good for, how much are they going to charge for permits and sizes. He would like to see some time between permits. Ms. Hash asked the way they're doing it now has caused some problems. Has anyone had 26 temporary permits a year? Mr. Tolloty answered no. Ms. Hash asked if they're punishing their businesses. They want to encourage businesses in Ellettsville. Mr. Tolloty wants to encourage permanent signs. If a business has a changeable copy sign then they won't come in and get a banner.

**Kevin Tolloty** has a problem with how the permanent sign code is written because it is confusing. There is an 80 s/f maximum for a free-standing read board which he thinks means the manual changeable copy, projecting and roof signs. Fascia signs can be 1.6 s/f per linear feet of building width and there is not a maximum square footage listed. Wall signs up to 50% of the wall, with no maximum square footage, are permitted. He would like to set a square footage maximum for all signs or reduce square footage to a certain percentage. Mr. Wesolowski asked what happens, for example, if a Meijer store comes in and can only have a certain square footage for the fascia sign but has a building 400' long. Mr. Tolloty answered they could have a fascia sign of 600 s/f on the building and they could also have wall signs for 50% of the building and from what he has read it could be any wall. He doesn't know what a fascia sign is supposed to be. Mr. Baker asked if 200 s/f encompasses all signs. Mr. Tolloty answered yes, the freestanding sign can be limited to a certain square footage and it could remain a maximum of 80 s/f. Mr. Baker thinks 200 s/f is too much. Mr. Tolloty stated a 10' x 10' sign could still be seen. Mr. Baker thinks a standard sign wherein they're just changing the name shouldn't come to the Plan Commission. If they want to change the footprint it would need to come before the Plan Commission.

**Don Calvert** suggested a formula to calculate the signage size but if someone wants a larger sign then it needs to come back to the Plan Commission. Mr. Tolloty replied it could be done. Ms. Hash commented in the East Ellettsville Area Plan it was suggested they try to incorporate limestone more and move toward monument signs rather than high signs. She would like to reintroduce that thought. They could incorporate a standard that made signs more alike for a unified look. Mr. Calvert doesn't disagree but it is an expensive undertaking. Mr. Baker doesn't think national chains will want to do a monument type sign. Ms. Hash remarked if you don't have expectations than none are ever met. Mr. Wesolowski has a concern with being able to see monument signs from the street. Mr. Tolloty said monument signs have to set further back from the road because they block vision. Mr. Coppock suggested requiring signs with limestone accents. Ms. Hash agreed. Mr. Baker thinks electronic changeable signs should go before the Plan Commission and all others should be issued by the Planning Department.

**Russ Ryle** thinks the positioning of temporary signs create a traffic problem near intersections of driveways. At night it is exceedingly distracting driving down commercial strips with flashing electronic signs and it impairs driving. Mr. Tolloty commented if they're flashing then they're not permitted. Mr. Ryle said if they're scrolling or have colors similar to traffic signals it makes it difficult on multi-lane roads where there are turn lanes and intersections and is confusing at night. State Road 46 has seen a 20% increase in injury and fatal accidents in the last two years. It is only going to get worse if this traffic picks up with I-69 so they're going to have an increasing issue with traffic safety through Ellettsville. The visual clutter from signage might be a factor. In this political season there signs located in his neighborhood that make it difficult to see traffic getting in and out of his driveway. Mr. Tolloty stated signs are supposed to be a certain distance out of the right-of-way.

**Kevin Tolloty** is uncertain whether or not Litten Apartments will come before the Plan Commission in June. Mr. Drake stated it would be very difficult for him to approve anything not similar to the duplex apartments located next door. Ideally, they would keep the front portion of the lot as commercial and buffer it with a duplex type of development between it and the residential. He won't be able to go along with tall, big or large scale apartments. Mr. Wesolowski asked if it is not on the agenda for the June meeting, and they don't withdraw their petition, is it null and void. Ms. Brown answered the Plan Commission specifically continued it to the June 2, 2016, meeting. If they don't show up for the meeting it can be taken into consideration but it can't be considered as being

withdrawn. Ms. Hash asked if they would have to pay their fees again. Mr. Tolloty replied not if it is continued again. Ms. Brown added it would have to be re-advertised because the Plan Commission specifically said at the last meeting it was continued to June 2, 2016. Ms. Hash asked if they could request another continuance. Ms. Brown answered she would have to check the code but thinks they can get two continuances without the petition being dismissed. Mr. Drake asked if it is on the agenda for June 2, 2016, and they don't have a different proposal do they still have to take a vote and have findings of fact. Ms. Brown thinks they have to have something but doesn't think they will have to worry about it. Mr. Wesolowski asked what happens if they show up with the same proposal. Ms. Brown explained they've already made their proposal, presented their evidence and the Plan Commission heard the opposition. They would either have to permit or deny it and either way they're going to have to make findings explaining their decision. The petitioner asked for the continuance to give them time to go talk to the neighbors and see if there was anything he wanted to do for the project. Mr. Wesolowski asked if they make changes do they have to reapply. Mr. Tolloty answered it depends on how much they're changing it and Ms. Brown added if they're changing the scope of the project then they would have to reapply.

### **Privilege of the Floor**

**Don Calvert** recognized the good job the insurance company did on remodeling the former radio station. They did a great job and it looks really nice.

**Brian Mobley** complimented Denise Line for doing a good job on the surveys. Is there a copy at Town Hall if someone wanted to look at it? Ms. Hash answered she has the survey on her computer and can print it if someone wants it. Mr. Tolloty will ask Ms. Line to put it on the website and it can be emailed to anyone who requests it. Mr. Mobley noted a majority of people who took the survey said they like the "small hometown feel" of Ellettsville. He doesn't want to handcuff the mom and pop shops with signage and thinks it should be more streamlined. They want downtown to flourish and that's where the mom and pop stores are located.

### **Adjournment**

Terry Baker entertained a motion to adjourn. Pat Wesolowski so moved. Don Calvert seconded. Terry Baker adjourned the meeting at 7:25 p.m.

---

Terry Baker, President

---

Brian Mobley, Vice President

---

Sandra C. Hash, Secretary

---

Don Calvert

---

Pat Wesolowski

---

Kevin Farris

---

David Drake