

October 1, 2015

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, October 1, 2015, 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; Russ Ryle, Vice President; Don Calvert, David Drake, Pat Wesolowski and Sandra Hash. Scott Thomas was absent. Kevin Tolloty, Planning Director; Rick Coppock, Bynum Fanyo and Associates, Town Engineer and Darla Brown, Town Attorney, were also present.

Approval of the Minutes

Terry Baker entertained a motion for approval of the minutes for the regular meeting on September 2, 2015. Pat Wesolowski so moved. Don Calvert seconded. Motion carried.

New Business

Petition for Subdivision, 5555 W. State Road 46 (2 Acres); Petitioner: Michael Stephen Hill; Case No. PC 2015-10

Kevin Tolloty, Planning Director, explained this is a re-plat of three lots. The parcels are home to the State Road 46 Mini Warehouses and Carson's BBQ. Parcel lines run through several warehouse buildings on the back half of the property. The re-plat will separate the warehouses from Carson's BBQ. It will add an ingress/egress easement that runs to the rear parcel because it will be landlocked but it will have a legal entrance through an existing driveway. Staff supports primary and secondary approval of the subdivision. It is zoned C-3. There are some legal non-conforming buildings on the site but nothing can be done about that. Ms. Hash asked the reason for the subdivision.

Michael Hill answered he would like to sell the building in the front. At the present time the property line runs straight through the storage buildings. They are actually two different businesses and he felt they should be on separate lots. Currently, there are three different lots. The driveway will be incorporated into the new lot which Carson's BBQ sets on. The intent is to have each business sitting on a separate lot.

Terry Baker entertained a motion to give first and secondary approval to this petition. Pat Wesolowski made a motion for approval of subdivision, 5555 W. State Road 46 (2 acres), Petitioner, Michael Stephen Hill, Case No. PC 2015-10, favorable primary and secondary plat approval. David Drake seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; David Drake – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 6-0.

Approval of a Manual Changeable Copy Sign Located at 4200 W. State 46; Petitioner: C & S, Inc. (Circle S Mart); Case No. PC 2015-11

Kevin Tolloty, Planning Director, explained this request is for a manual changeable copy sign. According to the Town's ordinance this requires Plan Commission approval before the sign permit can be issued. The sign will fit in the existing free standing sign. The sign permit has been reviewed and it complies with all regulations. Staff recommends approval.

Terry Baker entertained a motion to approve the changeable copy sign petition for 4200 W. State Road 46. David Drake made a motion to approve the sign located at 4200 W. State Road 46, Case No. PC 2015-11. Russ Ryle seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – abstained; David Drake – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 5-0, with one abstention.

Petition for Voluntary Annexation of 8325 W. State Road 46 and 8439 W. State Road 46 (39.23 Acres); Petitioners: Donald & Diana Scroggins ("Scroggins") and Michelle Kleindorfer, on behalf of the Fred Ponton Estate ("Ponton"), Respectively; Case No. PC 2015-12

Kevin Tolloty, Planning Director, presented this 100% voluntary annexation for consideration. Its borders are 20% contiguous to the Town which equates to 12.5%. The Scroggins property consists of two parcels, including a single family home, on the south

side of Flatwoods Road and an auto repair business which will be the same going forward. The

Ponton property is one parcel but there will likely be a subdivision splitting it into two parcels. One parcel will consist of the home and the woods and the undeveloped portion is proposed to be a solar farm for Hoosier Energy. Staff recommends a favorable recommendation with zoning of A-1, Agricultural, and I-1, Light Industrial. The house on Ponton property being zoned I-1 would be considered a legal non-conforming use. As long as the house remains on the property and used in a residential matter they could use it as long as possible. Ms. Hash asked if there are two owners. Mr. Tolloty answered yes and both have signed the petition. Mr. Wesolowski asked if the county is still involved in the solar farm. Ms. Brown replied not that she knows of. Mr. Wesolowski asked if it would deter the Town from allowing the solar farm if the county was still working on this program. Ms. Hash stated *The Herald Times* mentioned the county has turned it down. Mr. Wesolowski asked if the county is still working on the property does the Town have the right to annex it into Ellettsville. Ms. Brown replied if the owners make a petition for annexation then that is what the Town can rely on.

Terry Baker asked what the recommended zoning is. Mr. Tolloty responded the recommended zoning would be A-1 and I-1 which allows the business to run on the Scroggins' property. Mr. Baker asked what I-1 includes. Mr. Tolloty answered light industrial uses and would be scaled based on size. Mr. Ryle asked if solar farms are not mentioned in the Town's zoning code. Mr. Tolloty replied it refers to utility transmission and distribution facilities would be permitted. Ms. Brown read *"Light industrial district designates areas for manufacturing, processing and assembly operations that produce very little or no smoke, dust, noise or other environmentally objectionable byproducts. Warehousing and distribution are acceptable uses in the I-1 district. Due to potential heavy traffic location along the well-constructed, industrial or collector street with access to an arterial street or along an arterial street is important. All but light commercial uses should be discouraged."* Mr. Tolloty noted another reason for light industrial zoning is because of the very limited amount of industrial zoning in Town with a majority of that being in the floodway. During the Steering Committee meetings there was talk about developing westward in an industrial fashion and this will play into the Comprehensive Plan. Mr. Drake asked if they've heard from the neighbors around State Road 46. Mr. Tolloty answered he has not received comments from anyone. Mr. Drake mentioned the property to the south is a commercial business. Mr. Ryle asked if the property owners received certified letters. Mr. Tolloty replied annexations do not require a certified mailing and only a public notice in the paper. Mr. Ryle asked if they're annexing but not setting the zoning. Mr. Tolloty stated the zoning is recommended as part of the annexation. Mr. Drake asked if the adjoining properties will receive any other notification when it goes to Town Council for the final zoning to be set. Mr. Tolloty answered no. After a discussion about notice to adjoining properties, Ms. Brown advised utilities are not governed by local Plan Commissions. Mr. Drake isn't opposed to solar farms. He's concerned about zoning something as a commercial or industrial zone next to residential areas and those people not having any idea the property is being annexed or zoned a certain way unless they happen to read the notices in the newspaper.

Pat Wesolowski asked if they have to annex it with a zoning. Mr. Drake answered yes. Mr. Wesolowski asked if they bring it into Town as agricultural and the petitioner wants it rezoned, would letters be sent to the neighbors. Mr. Tolloty answered yes, if it was a rezoning. Mr. Ryle said that was his point, they could put it in a sequence wherein the neighbors would have a say. Mr. Baker disagreed. Once it is brought into the Town with agricultural, they can still put the solar farm on the property without any permit. Mr. Ryle would like to bring it in as agricultural and the utility can come in. Once they zone it I-1, a lot more than the solar farm might show up. Mr. Drake thinks it is a good spot for light industrial on State Road 46. He is uncomfortable with doing that type of rezoning without neighbors being aware of it. He knows this has been done with other annexations but usually they're residential. They're not creating an industrial area next to a residential rural area for people who aren't citizens of Ellettsville. Ms. Hash noted in past annexations they did notify surrounding property owners. Mr. Tolloty stated none of the annexation requests this year have sent out notices by certified mail. Mr. Drake reiterated he is not opposed to

making this industrial or solar farms. He doesn't like the idea of not letting people know they're preparing to turn something currently agricultural into an industrial zone without having an

opportunity to speak. Ms. Hash asked if they do not have to follow the Town's zoning laws, then what is stopping them from remaining in the county and opening a solar farm. Mr. Tolloty thinks the county disagrees with that assessment. Mr. Ryle asked Ms. Brown if it is appropriate for a member of the Plan Commission to make a motion to approve a requested voluntary annexation with the proposed zoning changed to A-1. Ms. Brown replied yes, they can make a recommendation. Mr. Drake said before they could do that they would need to know if they still wanted to voluntarily annex. Mr. Ryle commented if they wanted it zoned I-1 they would have to come back before the Plan Commission.

Paul Cummings, Hoosier Energy, thinks everything stated by Ms. Brown and Mr. Tolloty is accurate. From his perspective it doesn't matter what the parcel north of Flatwoods Road is designated. He wants to make certain the Scroggins have the ability to maintain their business. Mr. Wesolowski asked if Hoosier Energy owns the property. Mr. Cummings answered no, they're doing it on behalf of the Ponton Estate. Their option is on the southern portion of the parcel. Mr. Drake asked if they zoned it all A-1 could the Scroggins continue with their business as a non-conforming use. What are the Scroggins doing on their property? Mr. Tolloty said it is auto repair. Mr. Drake noted the adjoining property is zoned C-3. He would be much more comfortable with zoning the Scroggins' property a C-3 and the remainder A-1. Mr. Cummings stated that is reasonable. Mr. Wesolowski asked if it is zoned A-1 do they have to return to the Plan Commission to change it. Mr. Tolloty answered they won't need to. Ms. Hash asked if a solar farm is permitted in an A-1. Mr. Ryle stated the attorney has stated a solar farm can go where it wants to. Mr. Wesolowski asked if they still won't be sending anything to the neighbors. Mr. Drake answered the Town won't but they're not the one's doing it. The Plan Commission is annexing something into the Town limits and giving it an agricultural zoning. If, in fact, by right they can do what they propose, in his opinion it is not their responsibility at that point. Mr. Ryle's concern is if they zone it I-1 and Hoosier Energy does not buy the property they've opened up "Pandora's Box" to those neighbors without them having a warning. Mr. Coppock commented if the property is subdivided they will have to come back and notify property owners. Mr. Cummings has notified some of the adjoining property owners but not all of them. Mr. Drake asked Mr. Cummings if he agreed on zoning of A-1. Mr. Cummings replied it works for Hoosier Energy and would work well for the project and thinks the Scroggins would be pleased with that as well.

Terry Baker entertained a motion to approve the Petition for Voluntary Annexation for 8325 and 8439 W. State Road 46 with a positive recommendation to the Town Council with the top parcel of the area being zoned as A-1 and bottom two parcels referred to as the Scroggins' property being zoned as C-3. David Drake made a motion to approve the Petition for Voluntary Annexation for 8325 and 8439 W. State Road 46 with a positive recommendation to the Town Council with the top parcel of the area being zoned as A-1 and bottom two parcels referred to as the Scroggins' property being zoned as C-3. Russ Ryle seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; David Drake – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 6-0.

Petition for Subdivision, 1150 W. Guy McCown Drive or 7000 block of Maple Grove Road (50 Acres); Petitioner: Town of Ellettsville; Case No. PC 2015-13

Kevin Tolloty, Planning Director, explained this is the Town Hall development plan/subdivision approval request. It is a 49.50 acre parcel to be split into a 3.9 acre parcel on which the Town Hall will be built and a 44.9 acre parcel. Additionally, there are site and landscape plans and the development plan up for review. Staff and Town supervisors have reviewed the plans and there were no comments. The subdivision and development plans do meet zoning and subdivision regulations. Staff recommends primary and secondary approval of the subdivision and approval of the development plan with any conditions of the Plan Commission. Mr. Ryle asked how many feet of vacant land there was before the property line. Mr. Coppock answered it is approximately 150.86 feet. Mr. Ryle asked if it will eventually be developed. Mr. Coppock replied it could be. Mr. Ryle noted there are some sewer and water easements coming in from the existing

neighborhood. Are there any plans for using Lee and Harris Streets for pedestrians or vehicles? Mr. Coppock answered no. Mr. Ryle said there have been discussions that some of the land on this parcel of ground might

become a park. He is wondering about pedestrian or bicycle access via Lee and Harris Streets if there is Park Development.

Rick Coppock, Bynum Fanyo and Associates, Town Engineer, explained the only real discussion about pedestrian park land is to connect to the Heritage Trail by going through Senior Housing to McNeely Street. Mr. Ryle asked where that potential route connected. Mr. Coppock said eventually there may be a road that goes out to Maple Grove. Mr. Wesolowski asked if it will only have one entrance and exit off of State Road 46. Mr. Coppock answered yes. Mr. Ryle asked if it would allow traffic to go in at the Police Department on State Road 46 and go to Maple Grove. Mr. Coppock replied it could, but it would be very expensive to build that piece to Maple Grove Road. Mr. Ryle asked what the elevation change is from one end to the other. He thinks it is about 100 feet. Mr. Coppock said it could be that.

Emily Phelps is a resident of the Lee – Harris Street area. They appreciate there are no plans to upgrade the streets to allow thru traffic from their neighborhood. One of the things that happens when you live in a home for a long time is you get use to the area around you. They appreciate there is not going to be any changes to allow motor traffic through that area. They also appreciate there will be 150 feet between where their property line ends and where the road is proposed to begin. It does give them a nice buffer. They would appreciate structures or other things not being put on the land between Guy McCown and the property line. She thinks the proposed 150 feet is perfectly acceptable. They're looking forward to having that area developed. They're happy with the plans and thanked the Town for the notice.

Thomas Phelps supports the plans as presented. There are a couple of concerns such as the potential for noise and light pollution, particularly the sounds of fleet vehicles and State Road 46 bouncing off of the building. Mr. Coppock explained there are no plans for any other buildings as of yet, however, they would be located behind Town Hall. As far as softening the noise, they do have a landscape plan which shows trees planted around the building. The trees will help cushion some of the noise off of the building. The revised plans have some additional trees to help buffer the nearby residents. Town Hall will set higher than their homes. Plan Commission meetings are one of the biggest meetings held at Town Hall and they have low traffic. If the fleet services are in the back and it's snowing they may have more evening traffic than anything else. It will be an inconvenience at times but it won't be continual. There will be some street lights but he's uncertain as to the Town's plan about lighting on the building and around the parking areas. Ms. Hash advised the Fire Department parking lot lights are on a timer and go off about 10:00 p.m. Mr. Wesolowski stated they can't tell Ms. Phelps there will be a 150 feet buffer forever. Mr. Coppock said there is a 25 foot easement for the waterline so they can't build within it. It has commercial zoning and the rear yard setback for the Town is 20 feet and when the zones between properties differ then it doubles. So, there will be a 40 feet buffer in the back. There is not any development planned for the 150 feet.

Jeff Schum, representing the John Bough property, confirmed Mr. Coppock was explaining the buffer of 40 feet along the south and up to the current development would only leave 80 feet for development. Mr. Coppock stated they would have 85 feet to develop. Mr. Drake asked if they were to build in that area would they have to subdivide it. Mr. Coppock answered it would have to be subdivided. As adjacent property owners they would get notification of anything that happens. Mr. Ryle understands the ground is a gentle slope from the proposed site to the new Town Hall toward Lee Street. Mr. Schum asked what the landscaping is going to be. Mr. Coppock answered it will be planted in grass. Mr. Schum confirmed there are no plans to come up to Harris and Lee Streets. Mr. Coppock answered no. The sewer comes in through Lee Street. Harris and Lee Streets are too small for the waterlines so they will have to come down State Road 46.

Matt Bonades, property owner on Lee Street, is not adjacent to the property. He and his wife are satisfied with the plans. They want to encourage landscaping or a way to deaden sounds coming from Town Hall for activities during the day and night. Mr. Drake mentioned it will be an entry to the new Town Hall so they want it to look nice.

Darla Brown, Town Attorney, advised there are two different issues so it might be helpful to have two different motions. One for the development plan approval and one for the subdivision.

David Drake made a motion to approve the Petition for the Subdivision for the Town of Ellettsville for 1150 W. Guy McCown Drive or 7000 block of Maple Grove Road, Case No. PC 2015-13. Russ Ryle seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; David Drake – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 6-0.

Terry Baker entertained a motion for the Development Plan. David Drake made a motion to approve the Development Plan for the same petition, PC 2015-13. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; David Drake – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 6-0.

Terry Baker thanked the audience for their input and their attendance at the meeting.

Planning Department Updates

Kevin Tolloty, Planning Director, discussed the last Steering Committee meeting. They discussed the survey which is open to the public. It is posted on the Town and Planning websites. It can be filled out electronically and there are paper copies available at the Planning Department, Clerk-Treasurer's office, Fire Department, Monroe County Public Library and The Endwright Center. It will be about one more month before the survey ends and it will take some time to go through the results. They will have a public workshop sometime next year.

The Planning Department has been updating various applications.

The Plan Commission Rules of Procedure call for a Technical Advisory Committee ("TAC") for subdivisions and development plans. He doesn't know if there is any interest in trying to put this together for 2016. Ms. Hash thought the TAC was the supervisors. Mr. Tolloty stated there is some language that needs clarified and different powers go to different committees. The zoning ordinance does not mention a TAC. If they put a TAC together now they would have the powers they're supposed to have because it has to be authorized out of the zoning ordinance and he doesn't think it is. Mr. Baker agrees with Ms. Hash in that he thought the TAC was comprised of the department heads. Mr. Ryle wants to see a definition as to what technicals they're dealing with because it can be a broad statement. Mr. Tolloty replied under Indiana code they can set up a plat committee which can double as a TAC who will review subdivision plats and development plans before they go to Plan Commission. Mr. Ryle asked if they're reviewing such things as sewer, water, streets, etc. Mr. Tolloty answered it is made up of three Plan Commission members, department supervisors and any other specialties that may be needed. Ms. Hash attended a meeting for Tractor Supply and it was really good. The Fire Department had quite a few comments. So each department is looking for certain things and bringing them together is enlightening and a learning process for the Plan Commission. Mr. Tolloty stated there will be technical reviews and Plan Commission will look at development plans. If it is set up properly they can approve some of the two lot subdivisions which are taking up time in the Plan Commission and, thus far, haven't generated many comments. Instead of a more formal process they can be taken care of in a timelier manner. They will be able to provide more insight on the technical part and then it can be brought before the Plan Commission who will have a different view of the plan. Mr. Ryle said if they do have a TAC he would like to see people on it with technical expertise. When a plan comes up and he has questions as to drainage, lay of the land, road access, etc., he is not an engineer and needs to know someone who is well versed in it is not seeing something he missed. Mr.

Tolloty advised him, someone from each department and Rick Coppock will serve on it. Mr. Ryle is also looking for an independent voice or technical advisors not associated with the petitioner. He has a real problem when he looks for technical expertise from someone who is also working for the petitioner. If they're doing something on Fire Department property maybe they will get technical advice from someone at VanBuren or Bloomington Township. They ought to have a segregation of who is representing the Plaintiff and who is advising the Town. Mr. Tolloty does know how feasible that will be because of budget issues.

Plan Commission Comments

David Drake would like for them to look at some way to make sure they don't have another situation wherein they're going to make a drastic change in zoning to a newly annexed area without some type of notification to adjacent property owners. They can send a letter stating what will be discussed at the meeting. Ms. Hash added it wouldn't have to be sent certified but by first class mail. Mr. Tolloty would like to get around the regulations requiring certified mail for all public hearings as it is not required by the state. They can be sent with a Certificate of Mailing which is significantly cheaper. He would like to look at alternatives that may be more cost effective. Mr. Baker agrees with Mr. Drake and likes the idea of the Certificate of Mailing. Mr. Drake doesn't think they need to do this just for annexations but where there's a drastic change in zoning. If they're going to annex something and the zoning remains the same then he doesn't know if it is necessary. Mr. Ryle remarked this needs broken into two questions: (1) What is the minimum notification requirements they have to give people? (2) What is their policy going to be as far as giving courtesy first-class mail notifications? Ms. Brown doesn't know for the Plan Commission if certified mail is required on most of them. As long as they're following the state statutes they can always make the Plan Commission rules and regulations more restrictive. Ms. Brown knows signs are posted on the properties 48 hours before the hearing as a reminder to neighbors. Mr. Coppock noted Bloomington requires an affidavit stating all property owners were notified and the county requires a certified mailing as opposed to the certified mail, return receipt requested.

Adjournment

Terry Baker entertained a motion to adjourn. David Drake made a motion to adjourn. Russ Ryle seconded. Motion carried. Terry Baker adjourned the meeting at 7:28 p.m.

Terry Baker, President

Russ Ryle, Vice President

Sandra C. Hash, Secretary

Don Calvert

David Drake

Scott Thomas

Pat Wesolowski