

October 5, 2017

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, October 5, 2017, at Town Hall located at 1150 W. Guy McCown Drive. 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; Don Calvert, Brian Miller, Pat Wesolowski and Sandra Hash. Kevin Farris was late. David Drake 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 August 3, 2017. Pat Wesolowski so moved. Brian Miller seconded. Motion carried.

Old Business

Comprehensive Plan (Land Use)

Terry Baker advised Old Business will be moved to after the completion of New Business.

New Business

Voluntary Annexation of 5255 N. Union Valley Road (6.25 Acres); Petitioner: Robert Burckes; Case No. PC 2017-18

Kevin Tolloty, Planning Director, explained this parcel is south of Union Valley Farms. The front of the property is currently residential and at the rear are two commercial block buildings used to store equipment for a landscaping company. Property is split zoned residential, agricultural/rural reserve and limited business by Monroe County. It is proposed the property will continue to be split zoned Commercial 1 (“C-1”) and Agricultural 1 (“A-1”). Staff recommends a favorable recommendation with C-1 and A-1 split zoning.

Sandra Hash asked if there is a motive behind the annexation. Mr. Tolloty answered the county does not permit separate uses on one lot. Mr. Wesolowski asked if the county found out about it because someone complained. Mr. Tolloty replies yes. Mr. Wesolowski asked what the complaint was about. Mr. Tolloty answered it was about the noise from the landscape company moving equipment. The Petitioner informed him the landscape company moves equipment between 8:00 a.m. to 6:00 p.m. which is not a violation of Ellettsville ordinances. Ms. Hash asked if it was an adjacent property owner who complained. Mr. Tolloty believes it was. Mr. Wesolowski asked if the landscaping company intended to expand their business. Mr. Tolloty is not aware of any intent to do so.

Sarah Hacker’s property adjoins the Burckes property and she is concerned whether it is Bloomington or Ellettsville. All of the surrounding area is residential. The traffic from the business at the rear of the property is terrible. She doesn’t think with residential surrounding the property that it should have its current zoning. With all of the cars, trucks, trailers and delivery trucks, the traffic is terrible. This is not a piece of property that should have that type of business working from it. There is also traffic from a rental house on the property. She has complained about the business and they tell her they’re looking for another property. Sometimes the business operates late at night and early of a morning.

Chris Harrison, 4618 W. David Allen Court, has no objection to the annexation. The biggest concern of the homeowners’ association (“HOA”) is what could happen once it is annexed. Can the current or future landowner request access off of David Allen Court to the commercial site? They bought into the HOA because of the small amount of traffic. Most residents are senior citizens and the homes are close to the street. They’re hoping to keep

it this way and that the Town does not allow access to their cul-de-sac area. Ms. Hash asked how far it is from the rear of the houses to the driveway that accesses the outbuildings. Mr. Harrison estimates it is 100' and 15' to 20' for the four houses after turning into David Allen Court. They don't want to see access to David Allen Court for the commercial portion of the property or for the subdivision behind them. Ms. Hash explained that would be up to the HOA because it has all of the land and there are not any pre-existing road cuts unless there is an easement. Mr. Tolloty explained the way the subdivision behind them has been platted, there are cul-de-sacs at the end and lots around the perimeter so there's no any way they would ever be able to access through there. The Petitioner has no intention of putting in an access on the back of the property and he doesn't think it would be permitted by Town Code. Mr. Harrison thinks it would be nice if this was written somewhere in the process. Mr. Tolloty will look into it and thinks will almost guarantee there's no way to hook into the Hidden Meadow subdivision.

Bob Burckes, Petitioner, has no intention of allowing the subdivision behind him access through his property. Based on the layout of his and the surrounding properties, it would be extremely unlikely that anyone would actually want to make a connection to David Allen Court. It would make more sense to widen the existing drive to the property, if that should happen. Ms. Hash asked if the driveway is gravel or blacktop. Mr. Burckes answered it is blacktop. Ms. Hash asked if there are a lot of trailers for the landscaping business. Mr. Burckes replied there are two trailers that carry mowers in and out of the property between 8:30 to 9:00 a.m. and at approximately 5:00 p.m. Ms. Hash asked if this is a year-round or seasonal business. Mr. Burckes answered it is a year-round business and they also do some snow plowing so they would leave when there is snow and return at the end of the day. Mr. Miller asked how many employees they have. Mr. Burckes is uncertain because the business is not based out of his property and is primarily used to store the mowing equipment, trailers and some supplies. Generally, there are five to six who park their trucks in the morning and then go out in the landscaping vehicles. Sometimes during the day they may drop off a mower and pick up something else. He also rents out a building on his property and part of his house from time-to-time.

Pat Wesolowski thinks there are two situations: Concerns with traffic and access from the Burckes' property. Could they make a road to David Allen Court from the A-1 portion of the property? Mr. Tolloty has not found whether or not they can in Town code. It's conceivable there could be a driveway cut but it would never be recommended. Mr. Wesolowski asked if there could be wording stating "there would be no cuts off of the property to go to David Allen Court." Mr. Tolloty agrees. Ms. Brown explained if the Plan Commission is inclined to do so she would ask that this be tabled to give them a chance to talk to the property owner. If this was an involuntary annexation the remonstrators could swap their remonstrance for an agreement. This is a voluntary annexation so she is uncertain if conditions can be included in the ordinance. Ms. Hash asked Mr. Coppock if there are any driveway easements along David Allen Court. If there is, would it be up to the property owners or the HOA to allow or disallow it to happen. Mr. Coppock thinks the right-of-way abuts the adjacent property. Ms. Hash asked if a storage facility would be an acceptable use in an A-1. Mr. Tolloty answered a landscaping type business is a permitted use in A-1 and it eliminates a lot of the uses that could go in commercial districts. Ms. Hash asked if both out buildings are in A-1. Mr. Tolloty replied yes. Mr. Calvert thinks there appears to be a lot of unanswered questions, adding new wording and discussions on involuntary and voluntary annexation. This needs to be tabled so they can get additional information. Mr. Wesolowski agreed.

Terry Baker entertained a motion to either accept, table or deny the annexation. Don Calvert said that is his recommendation. Pat Wesolowski seconded. Motion carried.

Voluntary Annexation of 61.75 Acres on W. Harbison Road; Petitioners: Jill Goodmon, Randy Nikirk, Gregory Hetser, Bradley Hester; Case No. PC 2017-19

Kevin Tolloty, Planning Director, explained this is a 100% voluntary annexation. The property is undeveloped and is zoned agricultural by Monroe County. The application has proposed zoning or Residential 3, Multi-Family Residential ("R-3"). The intention is to develop a mix of residential houses with single family, condominiums, paired patio homes and things of that nature. Staff recommends a favorable recommendation of R-3 zoning. The property has changed ownership since the last meeting.

Sandra Hash asked if the only good access to this property is Harbison Lane which is in the floodplain. How is this issue addressed? Mr. Tolloty answered the Petitioner has been looking into it over the past several months.

Last year, the code got updated stating people can't build anything with more than 10 dwelling units when there is only one way in/out.

They're limited until they find a second entrance. At this time, the one way in/out is through Westbrook Downs by the means of a right-of-way that can be accessed. The property can be accessed through a floodplain but it requires additional engineering. Ms. Hash asked if R-3 allows apartment buildings. Mr. Tolloty replied yes. Ms. Hash is not in favor of a multi-family use on that property. Mr. Tolloty noted R-3 is the only zoning that allows condominiums or townhomes. Mr. Wesolowski asked if they can build 10 homes and complete them can they build another 10 with only one in/out. Mr. Baker replied the cap was 10 and if they want to build more they have to provide the second entrance. Ms. Hash asked if they build single family on 61 acres would they build four houses per acre. Mr. Tolloty answered yes. Ms. Hash asked if they built apartment buildings how many would there be. Mr. Tolloty replied it's 2,500 ft² per unit but not all of the land is developable and there will be right-of-way, roads, green space and there is a floodplain. Ms. Hash asked if the 2,500 ft² minimum is for paired patio homes. Mr. Tolloty thinks the lot size for paired patio homes are 10,000 ft².

Pat Wesolowski asked if the proposed zoning is C-1. Mr. Tolloty answered that was the original request but it has been amended and they're now requesting R-3 zoning. Mr. Wesolowski asked the reason for changing it to R-3. Mr. Tolloty explained originally, there were discussions of having light commercial zoning and setting up a mixed-use development and since then they decided to have it strictly residential. Mr. Wesolowski is not in favor of zoning for apartments.

Chuck Short now owns the property. Their intentions are to develop a nice neighborhood and not fill it full of apartments. The community could not handle all apartments. He would like to be able to have the option for apartments because not everyone can afford a house. He has constructed condominiums, single family homes and apartments in Bloomington. The goal is to make a nice, attractive neighborhood affordable to everyone. It will be based on what the market can bear and what the community is looking for. Mr. Wesolowski asked if he anticipates how many homes he wants to build on the property. Mr. Short replied they're going to lose at least 25% of the ground in roads, rights-of-way and sewers. They also want to include green space and not fill it entirely of homes, and a portion of it is not buildable. There's a sink hole on the property that is not buildable. It's a beautiful piece of property that will be a big asset to Ellettsville. Mr. Wesolowski asked the price of the homes. Mr. Short thinks there will be a mix but some will be in the \$150,000 to \$170,000 range, some in the low \$200,000 range and others. As the lots get bigger the homes will as well. Ms. Hash asked if he would be the builder. Mr. Short answered yes, he and his partner. They will also sell lots. Ms. Hash asked the size of the \$150,000 homes. Mr. Short replied it depends on the style of the home. A ranch would be a little smaller and they can get a little more for a two story. Most likely, they will be approximately 1,500 ft² or 1,600 ft². Ms. Hash asked if the cost of the lot is included in the price of the home. Mr. Short replied it includes the house and the lot but it will also depend on development costs. There may be some homes in the \$300,000 range. Ms. Hash asked if he would be building apartments or duplexes. Mr. Short would like to build some apartments. Mr. Short believes there are people who cannot afford a home and have to live somewhere. He would like to service that community. Mr. Wesolowski agrees. They don't really object to apartments as long as the people who are buying homes and lots know what's going on. Mr. Short stated it will all be drawn out in the plans. If they should find they can't rent apartments they would change them to single family. His desire is to serve everybody. Ms. Hash is concerned about the surrounding area because it is a country setting with single family homes. Mr. Short noted Westbrook Downs is a densely populated area and he hopes their lots will be somewhat larger. There will be commercial on the front portion of the property because it backs up to NAPA and O'Reilly's. They're looking at a piece of property on State Road 46 owned by Cowden Enterprises for access. If it was used for the entrance, it would be a great benefit for people living in Westbrook Downs. Mr. Wesolowski asked what the rent would be for the apartments. Mr. Short replied it would be in the range of \$550 to \$600 for one bedroom, \$100 more for two bedroom apartments and \$100 more for three bedroom apartments. Ms. Hash asked where the second entrance would be located. Mr. Short answered there are a couple of options with one being through Westbrook Downs and the other would be on an additional piece of property. Apartments will not be their priority because they're most interested in building single family homes. Ms. Hash has no problems saying yes if he was to ask for Residential 1 zoning. Because of a past experience on the Plan Commission and the fact the property is

surrounded by single family homes she has reservations about opening up the possibility for apartments. Ms. Hash asked if Residential 2 zoning allowed duplexes. Mr. Tolloty answered it allows single and two family homes but would not allow condominiums. Mr. Wesolowski reiterated he does not object to apartments. This parcel is different from apartments in other areas. This property is more secluded. Mr. Short agreed to stipulate that the apartments would not be next to Westbrook Downs which is the only location of single family homes. Mr. Wesolowski asked because this is an annexation can they suggest the location of apartments on the property. Mr. Tolloty explained the zoning would have to be split for the property. Mr. Short asked if they thought there was not a need for apartments in Ellettsville. Mr. Wesolowski answered every week in *The Ellettsville Journal* there are ads for apartments to rent. Ms. Hash noted Capitol Avenue Apartments always has vacant apartments. It was built against residential and it created issues for the neighborhood.

Terry Baker entertained a motion.

Don Calvert asked if the developer has to bring plans to the Plan Commission before construction. Mr. Baker answered yes.

Pat Wesolowski made a motion for PC 2017-19, to accept the voluntary annexation petition of 61.57 acres of land, Goodman, Nikirk and Hester annexation. Brian Miller seconded. Roll call vote: Terry Baker – yes; Don Calvert – yes; Brian Miller – yes; Pat Wesolowski – yes; and Sandra Hash - no. Motion carried, 4-1.

Amendment to Chapters 152.085 – 152.089, Industrial Districts

Kevin Tolloty, Planning Director, explained the amendment will allow for government operated utilities and an outdoor gun range with significant restrictions. There are four Industrial 2 zones in Town and three of them are located on Vine Street.

Sandra Hash made a motion to recommend approval of the amendment to Chapters 152.085 through 152.089, Industrial Districts. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes.

Don Calvert interrupted the roll call vote to ask for clarification of the motion. Ms. Hash stated she was recommending approval of the industrial zone for the shooting range at the sewer plant. Mr. Tolloty advised this was a public hearing and they need to ask for comments. Mr. Calvert is concerned the amendment does not mention noise. He doesn't think people will want a gun range because of the noise. Ms. Hash spoke to two people who live near the gun range. They both have heard the gun range and think it is loud. Mr. Wesolowski knows Marshal Jimmie Durnil spoke with an individual who lives on Cowden Road said he didn't really care.

Sandra Hash retracted her earlier motion. Pat Wesolowski retracted his second of the motion.

The meeting was recessed at 6:58 p.m.

The meeting reconvened at 7:15 p.m. Kevin Farris joined the meeting.

Terry Baker reopened the Amendment to Chapters 152.085 to 152.089, Industrial Districts. Mr. Calvert understands the amendment and has no objection. Mr. Wesolowski understands if the Wastewater Treatment Plant was sold it would revert to the original zoning. Mr. Tolloty explained the annexation would be reversed and it would go back to the county and their zoning designation. Mr. Wesolowski asked Marshal Durnil how many times they use the gun range. Marshal Durnil answered it will be used four days a week for three to four weeks out of the year. There may be other times when a new officer would have to be qualified. Mr. Wesolowski asked if dirt banks have to be built. Marshal Durnil replied yes, and they're to be 35'. They currently have a bank built but will have to move it or build it at a different angle. Mr. Tolloty noted there will be site plan approval for the gun range. Mr. Baker asked if there will be any night shoots. Marshal Durnil answered yes, there could be a night shoot. However, as soon as the sun sets it is considered night. Mr. Wesolowski asked if there will be lighting. Marshal Durnil answered no. This is a great need of the Police Department. Mr. Wesolowski asked if the gun range will be solely for Ellettsville Police Department. Marshal Durnil replied no, the county will be involved as well. Monroe County will qualify the same time as Ellettsville police officers.

Terry Baker entertained a motion for the Amendment to Chapters 152.085 through 152.089, Industrial Districts.

Kevin Farris so moved. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Don Calvert – yes; Kevin Farris – yes; Brian Miller – yes; Pat Wesolowski – yes; and Sandra Hash - yes. Motion carried.

Amendment to Chapter 152.125, Development Plans

Kevin Tolloty, Planning Director, explained the amendment fixes an incorrect process that directly conflicts with Indiana Code. The amendment will match Town Code to Indiana Code which states development plans are approved by the Plan Commission only. Mr. Wesolowski asked how it is currently written. Mr. Tolloty explained Town Code requires two hearings by the Plan Commission and a Town Council hearing. Indiana Code clearly states the Plan Commission has the final authority on development plans. Ms. Brown added the Plan Commission has exclusive jurisdiction.

Terry Baker entertained a motion for Amendment to Chapter 152.125, Development Plans. Pat Wesolowski so moved. Don Calvert seconded. Roll Call Vote: Terry Baker – yes; Pat Wesolowski – yes; Brian Miller – yes; Kevin Farris – yes; Don Calvert – yes; and Sandra Hash - yes. Motion carried.

Amendment to Chapter 153.057, Plan Commission Appeals

Kevin Tolloty, Planning Director, explained the amendment references Indiana Code that allows a case heard by a plat committee or hearing examiner to be appealed to the Plan Commission. The Town has neither a plat committee or hearing examiner. It states a decision of the Plan Commission can be appealed to the Plan Commission.

Terry Baker entertained a motion for Amendment to Chapter 153.057, Plan Commission Appeals. Pat Wesolowski so moved. Kevin Farris seconded. Roll Call Vote: Terry Baker – yes; Don Calvert – yes; Kevin Farris – yes; Brian Miller – yes; Pat Wesolowski – yes; and Sandra Hash - yes. Motion carried.

Old Business – Comprehensive/Land Use Plan

Kevin Tolloty, Planning Director, explained there is a current project going before Town Council and the developer has requested a tax abatement that is needed for a low-income senior housing project. As part of their application they need to reference a development plan. The revisions to the Comprehensive Plan are close to being completed. The developer has requested a development plan be drafted and adopted. The development plan will consist of current and future land use and housing chapters for the Comprehensive Plan. He is requesting a recommendation to Town Council who in turn decide whether or not the development plan is adopted. The land use plan would take effect for a short period of time and serve a purpose for the housing project. When the Comprehensive Plan is completed it will supersede the development plan. Current and future land use and housing chapters were explained.

Pat Wesolowski asked if this is being done because of a development coming in to Town. Mr. Tolloty answered yes, only three chapters will be adopted and they will be included in the Comprehensive Plan. He didn't prepare anything additional for the development plan but the Comprehensive Plan will not be passed in time for the developer's tax abatement application. The development plan covers everything not currently in the Comprehensive Plan. Mr. Farris asked if it is for the actual development or tax abatement. Mr. Tolloty replied it is for the developer's tax abatement application which has a November deadline. Mr. Farris asked if they currently meet the guidelines of the Comprehensive Plan. Mr. Tolloty answered the current Comprehensive Plan does not meet the requirements of the federal program for the tax abatement. Everything in the development plan will be included in the Comprehensive Plan. Mr. Wesolowski asked if the current Comprehensive Plan does not meet federal standards for the tax abatement. Mr. Tolloty explained it doesn't address the criteria comprehensive plans are to meet for obtaining the points necessary for their application. This is not a requirement to pass the tax abatement. Rather, it is a requirement for the low-income housing tax credits through HUD. The developer will receive tax credits through HUD, Indiana Housing and Community Development. The tax abatement is an additional part of the process. There was a discussion on Mr. Wesolowski's disagreement to approve only one section of the Comprehensive Plan.

Terry Baker entertained a motion to forward the Land Use Plan to the Town Council with a favorable

recommendation. Kevin Farris so moved. Don Calvert seconded. Roll Call Vote: Terry Baker – yes; Pat Wesolowski – no; Brian Miller – yes; Kevin Farris – yes; Don Calvert – yes; and Sandra Hash - yes. Motion carried, 5-1.

Sandra Hash asked since they're recommending the annexation of the property on Harbison Lane and have already annexed the Pat Mitchell property could they start the annexation of the Stewart property owned by the Town. Does the Town Council need to take a vote to do so since it is Town property? Mr. Tolloty answered he needs a consensus from Town Council before he starts working on it because the Town is the legal owner. Mr. Wesolowski agrees and suggested sending a note to Town Council stating the Plan Commission wants the Stewart property annexed into Town. After a discussion it was decided to send a letter to Town Council stating they would like to annex the Stewart property.

Terry Baker entertained a motion to send a letter to Town Council stating the Plan Commission would like it annexed into the Town. Kevin Farris so moved. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Pat Wesolowski – yes; Brian Miller – yes; Kevin Farris – yes; Don Calvert – yes; and Sandra Hash - yes. Motion carried.

Pat Wesolowski asked if the new law states annexations can be stopped by one person in an area. Mr. Tolloty explained it's a percentage of how many people are in the annexation area. There are different sections under annexations: 100% voluntary, 51% voluntary, involuntary and other chapters. If over 50% of the property owners remonstrate then it goes to court. If it is over 65% the annexation gets stopped.

Planning Department Update

Kevin Tolloty, Planning Director, advised next month's meeting is on November 2, 2017, and they will have plat approval for` Greenbrier Meadows, Phase V and possibly a development plan.

Privilege of the Floor

Adjournment

Terry Baker entertained a motion to adjourn. Kevin Farris so moved. Pat Wesolowski seconded. Motion carried. Terry Baker adjourned the meeting at 7:49 p.m.