

AREA PLAN COMMISSION

Minutes

Grant County Complex
401 South Adams Street
Marion, IN 46952

March 6, 2023

7:00 PM

1. Call to Order and Roll Call

President Briede called the meeting to order. Members present Randy Atkins, Bob Bothwell, Chuck Briede, David Broyles, Jerry Caudill, Rob Couse, Bob Highley, Frank Hix, Brian Hunt, Tyson Nuckols, Jim Todd, and Steve Wright.

Staff Present: Director Ryan Malott, Administrative Assistant Brenda Harrison, Code Enforcement Officer Nicole Bailey, and Area Plan Attorney Kyle Persinger.

2. Pledge of Allegiance

3. Approval of Minutes

Mr. Highley moved, and Mr. Broyles seconded a motion to approve the minutes of February 6, 2023, meeting with corrections to be made. Mr. Atkins, Dr. Bothwell, Mr. Broyles, Mr. Caudill, Mr. Couse, Mr. Highley, Mr. Hix, Mr. Hunt, Mr. Nuckols, Mr. Todd, and Mr. Wright voted yes. Motion carried.

4. Public Hearings – Old Business

4.1 Docket #02Z-23 (Public Hearing)

Name: Joe Mc Coy (Cont.)

Address: 1115 S Pennsylvania St., Marion

Requesting to Rezone from AG to GB

Legal Description: Being 4.67 acres more or less and located in the Northeast Quarter of Section 8 in Center Township.

Discussion continuing this petition from the February meeting.

President Briede stated that we had the public hearing and didn't need to open it back up.

Director Malott stated that Mr. Shannon had brought in more pictures of the property.

g: apc: apc minutes23:apc2023-03

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President Briede asked the board if they wanted to reopen for discussion. Mr. Highley wanted to make it clear that any questions to do with shrubbery, drainage, etc. are for BZA and that APC is dealing with rezoning only.

Mr. Wright stated that he had a discussion with Mayor Alumbaugh and Mr. McCoy regarding the possibility of another site in Marion. He stated that he couldn't go around looking because he had another meeting to go to and they didn't find a building in the city.

Mr. McCoy was present to represent this petition. He stated that he had gone around to look at different sights for his business, what buildings were available were out of his league. Mr. McCoy asked if the board would vote in the affirmative on the petition.

Objector

Mr. Justin Shannon spoke against the petition. Mr. Shannon verified that the board had pictures. Asked the board if they saw the picture of the mailbox on the ground. It is a couple hundred feet from Joe's front door. He said that if Joe couldn't pick up the mailbox, then how is he going to take care of property with the whole factory. Mr. Shannon asked, how would you like to have a factory next door? This is spot zoning like what was said before. Tons of health issues, environmental issues, without having a factory in the middle of everything. Ten years ago, Natalie Conn knocked on my grandma's door (where I live now) wanting to put a trash compactor on the property. She needed to get the signature of the two conjoining neighbors. That was us and Klaus, and we both opposed it. Mr. Highley stated that voting for General Business does not mean a factory will go in. There are a lot of legitimate concerns, but they should go in front of the Board of Zoning Appeals. Mr. Highley moved to rezone to General Business.

Motion: Mr. Highley moved to approve the rezoning; Mr. Broyles seconded. Mr. Atkins, Dr. Bothwell, Mr. Caudill, Mr. Couse, Mr. Hix, Mr. Hunt, Mr. Todd, and Mr. Wright voted no. Mr. Broyles, Mr. Highley; Mr. Nuckols voted yes. Motion denied.

4.2 Public Hearings – New Business

- 4.2.1 01TA-23 - Bed & Breakfast** – Director Malott stated that the definition a Bed & Breakfast is owner occupied and an Airbnb is non-owner-occupied short-term rental.

g: apc: apc minutes23:apc2023-03

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The Indiana Code states that a Bed & Breakfast is permitted in all zoning districts that permit residential use. It put our ordinance out of compliance with the State code.

He noted there have been several requests for Airbnb's in Upland.

Director Malott noted that although a Bed & Breakfast is allowed by right, a Special Exception can be required for Airbnb's.

A fee can be charged one time of up to \$150 for an Airbnb only, Director Malott suggests the fee be set at \$150.

No objectors present. Hearing was closed.

Motion made by Dr. Bothwell to approve and seconded by Mr. Highley.

Mr. Atkins, Dr. Bothwell, Mr. Broyles, Mr. Caudill, Mr. Couse, Mr.

Highley, Mr. Hix, Mr. Hunt, Mr. Nuckols, Mr. Todd, and Mr. Wright

voted yes. Motion carried.

4.2.2 02TA-23 - Restrictions Along Stream – Director Malott stated he was bringing this to the APC with consensus from the drainage board, **the** AWZO states that no other structure except for a fence can be built within 75 feet of a regulated drain/stream, stream, or other water body.

Indiana Code & Drainage Board states no permanent structure can be built within 75 feet of a stream. AWZO is in conflict. The Drainage board had input on recommended text amendment.

No objectors present. Hearing closed.

Mr. Todd stated that it needed to be changed, it has been there since 1965 and needed to be added to Area Plan ordinance so people would know about it.

Motion made by Mr. Todd to accept changes to Restrictions Along Stream and seconded by Mr. Atkins.

Mr. Atkins, Dr. Bothwell, Mr. Broyles, Mr. Caudill, Mr. Couse, Mr.

Highley, Mr. Hix, Mr. Hunt, Mr. Nuckols, Mr. Todd, and Mr. Wright

voted yes. Motion carried.

4.2.3 03TA-23 - Grading permits – Director Malott stated we have several ponds going in, we are having problems with ponds going in with no permit. If you are an acre or less, no permit is required. Grading permits are there for one acre or more. Application for grading permit shall be made to the Area Plan Office, following the Certification of Erosion Control (Rule 5) that is required through the USDA. The Grading Permit is in three different spots in the ordinance. Once they get the Rule 5 erosion control, they need to come into Area Plan for the permit. We want to see the site plan to make sure what is on the property. If there is a septic system, regulated drains, or are there any wells? Right now, Area Plan does not go look at the property, the health department doesn't go look, Surveyor/Drainage Board doesn't inspect, unless there is something

g: apc: apc minutes23:apc2023-03

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hit, or issue found. The purpose here is to put guidelines to the grading permits.

No objectors present. Hearing closed.

President Briede states they get a Rule 5, then come in (for permit). This is for anything over an acre, we're talk a greater development than just a house on the lot.

Director Malott gave examples of the old Van Buren Legion and Sports Lake currently going through excavations.

Motion made by Mr. Todd to approve and seconded by Mr. Broyles.

Mr. Atkins, Dr. Bothwell, Mr. Broyles, Mr. Caudill, Mr. Couse, Mr.

Highley, Mr. Hix, Mr. Hunt, Mr. Nuckols, Mr. Todd, and Mr. Wright voted yes. Motion carried.

5. Discussion on Attorney

President Briede stated that he wanted to get it documented in the minutes of the meeting that on February 22nd at 5:00 pm in this room, we had an Executive Board meeting the wasn't open to the public to discuss on Hiring of an Attorney, the Comprehensive Plan, and Rules of Procedure review. Members present were Steve Wright, Frank Hix, Randy Atkins, Brian Hunt, and Chuck Briede. Director Malott was also present.

We discussed hiring an attorney, we reviewed the job description and authorized it to be posted, so we could possibly get resumes in by March 13, 2023. Potentially setting up interviews for the following week.

Interviews would be done in an Executive Session with the whole board present including the BZA.

Mr. Atkins asked Mr. Persinger that since this is a personnel matter is that why we have an Executive session rather than public. Mr. Persinger stated that was correct.

Mr. Hartman (came from the audience) stated that IC5-14-3-3 Interviews of prospective appointees must be conducted in a meeting open to the public. He asked if this was an appointee?

Mr. Persinger stated that the IC code was for an appointment of a public official and would not apply.

Director Malott stated that pay was also discussed, and he has contacted surrounding counties on the pay for their attorney.

Dr. Bothwell wanted to know if we were limiting ourselves to Grant County only, he doesn't think we should be limiting ourselves to Grant County only.

g: apc: apc minutes23:apc2023-03

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6. Comprehensive Plan

Mr. Briede stated that the Comprehensive Plan was also discussed, and the APC's need to get it done. He noted the fact that we probably can't get it done in house.

Director Malott is in the process of contacting neighboring counties.

Director Malott stated that Mr. Highley came in the previous Monday and spent the entire day making phone calls to surrounding counties. Mr. Briede stated that other entities in the County that are doing similar things and could possibly piggyback on with us, the Growth Council is one and the Community Foundation is another. Mr. Highley stated that he saw that East Central Indiana Regional Planning group was at the Commissioners meeting for something else, but text Mr. Wright to contact them to see if they could help us. Mr. Wright stated that he had lunch with the gentleman, and it looks like they could help us and possibly find funding with grants.

7. Rules of Procedure

President Briede stated that Rules of Procedure were discussed. Director Malott noted that the IPA suggested that the rules review generally is a two-month project and it had been 18 months since the original workbooks were handed out (November 2021). Director Malott stated that he had finished a proposed set of rules, to keep moving forward. Dr. Bothwell stated the original rules committee had completed their rules proposal in July but had not got it back to the APC for review.

President Briede noted Dr. Bothwell's Rules proposal needed to be sent to APC Office, so they can get copies for us to work on and begin reviewing and comparing them to the county ordinance.

8. Executive Committee

President Briede stated that they went into an Executive session following the public meeting and discussed employee matters which cannot be discussed in a public meeting. There was also discussion on the handling of employee matters and the County Employee Handbook.

Mr. Atkins has concerns about what justifies the Executive Committee addressing issues for the Commission. Mr. Couse noted that the Commission voted members into the Executive Committee to take care of

g: apc: apc minutes23:apc2023-03

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those issues. Mr. Persinger discussed the broad parameters that can be used at the Commission's discretion. President Briede noted that it could be used for recommendations or personal matters. Dr. Bothwell discussed how often the Executive Committee had been used in his time. Dr. Bothwell noted his concern was that he did not want a small group (ex. Comm) deciding & making decisions for the entire group. Mr. Wright noted that the executive session that was held, he felt, was a great meeting. He noted it was over employee matters. It was noted that there were no decisions made. Mr. Hunt noted there are guidelines to what can be discussed. Dr. Bothwell reiterated that there are concerns, that Director Malott noted previously that the Executive Committee could take action for the entire board. Mr. Highley noted that is what the Code allows. Director Malott then read the Indiana Code on Executive Committee in its entirety. The Commission moved on to Election Procedures.

9. Election Process

Discuss was had on updating the Election process. Corrections made were to change "Paper Ballot" to "Standard Roll Call Vote" as the State Code would not allow a secret ballot. Correction was also made to clarify that if election was not resolved at time of election, that the current President would remain in place until issues could be resolved.

Mr. Atkins moved, and Mr. Wright seconded to adjust the election procedures to comply with the state code. Mr. Atkins, Dr. Bothwell, Mr. Broyles, Mr. Caudill, Mr. Couse, Mr. Highley, Mr. Hix, Mr. Hunt, Mr. Nuckols, Mr. Todd, and Mr. Wright voted yes. Motion carried.

10. Committee Reports

10.1 APC Attorney, Mr. Persinger stated he didn't have anything for the board.

10.2 Director Malott stated that the Directors Report is out and if there are any questions to contact him. He wanted the board to know that Grace had given her two-week notice. We have been trying for two years to make her full-time, and she is leaving us for a full-time job. Director Malott noted that Mrs. Simpson has no desire to leave Area Plan but can't afford to stay. Director Malott stated that he has given the job description to Justin to get out and start the application process. Director Malott asked if the Board wanted him to wait a month (till April Meeting) to hire or can he hire.

g: apc: apc minutes23:apc2023-03

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A motion was made by Mr. Todd to allow Ryan to interview and present a candidate at the next meeting for approval, Mr. Nuckols seconded. Mr. Atkins, Mr. Broyles, Mr. Caudill, Mr. Couse, Mr. Highley, Mr. Hix, Mr. Hunt, Mr. Nuckols, Mr. Todd, and Mr. Wright voted yes. Dr. Bothwell abstained. Motion carried.

11. Public Input

- 11.1 Ed Hartman spoke on the APC taking on the Comprehensive Plan, noting there should be a significant public input in the process. Mr. Hartman also asked who was taking the applications for the APC Attorney. President Briede noted that they were being turned in to Justin.
- 11.2 Dr. Bothwell questioned why we have had Sherriff Deputies at our recent meetings. Director Malott noted they were asked to be present for a possible controversial public hearing with the BZA. It was also noted that the new Sherriff, Del Garcia, was making it to most meetings.

12. Next Meeting is April 3rd, 2023 at 7:00 PM.

The Meeting adjourned at 8:43 pm.



Chuck Briede, APC President

g: apc; apc minutes23:apc2023-03

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