

**MINUTES
AREA PLAN COMMISSION
OCTOBER 1ST, 2007**

PUBLIC HEARING OF THE AREA PLAN COMMISSION OF GRANT COUNTY was held on Monday, October 1st, 2007 at 7:00 P.M. in a regularly scheduled meeting on the first floor of the Grant County Office Complex at 401 South Adams Street, Marion, Indiana. The following members were present: Myron Brankle, Bob Highley, Gary Johnson, Dick Trobridge, Kim Windle, John Woodmansee, Tony Manry, Jim McWhirt, James Dickey, and John Bonham, President. Members absent were Dennis Fox, and David Glickfield. Staff present was Kenneth Ellis, Executive Director, Dale Carr and Brenda Harrison.

John Bonham brought the meeting to order with the Pledge of Allegiance and a moment of silence.

John Bonham stated that there have been changes to the Commission and that in the remaining months there would be a meeting whether there are petitions or not. Tony Manry commented that, that had been put into a form of a motion in January, to meet regardless of petitions, and the Commission has met three times in seven months. John Bonham stated that there have been changes and are working in the Office to correct that.

Motion was made by Tony Manry to approve the August minutes as written, Dick Trobridge seconded. All members present voted yes; motion carried.

John Bonham stated that the Vice Presidents chair has been vacant since the resignation of Keith Roorbach, and that he would open the floor to any nominations.

Motion was made by Dick Trobridge to nominate Tony Manry as Vice President of the Area Plan Commission, Jim Dickey seconded. All members present voted yes; motion carried.

There was a short discussion of possibly moving the meeting in November to another date; the Commission decided to leave the meeting the first Monday in November.

It was also brought to attention of the Commission that the Executive Committee would need to replace Keith Roorbach. However, Rana Vctor's place on the Commission has been vacant since her resignation. Bob Highley and Myron Brankle volunteered to be on the Executive Committee.

Docket: 7Z-2007 (Public Hearing) Name: Guy M. Duckwall

Address: Approximately 9968 E 500 S, Upland, IN 46989

Zoning District: Residential-1

Legal Description: Being 5.0 acres and located in the Northwest Quarter of the Northeast Quarter of Section 6 in Jefferson Township (Upland Corporation).

Request: To change the zoning from Residential-1 to Residential Suburban.

Guy Duckwall, 9655 E 500 S, Upland, IN represented this petition. Mr. Duckwall stated that the major concerns from the meeting in August were the sign and lighting. The sign will be a 5 x 5 sign that says "ENTRANCE" only. As for lighting there is a street light not far from the entrance. There can not be an entrance through the town property from the highway, because it is not adequate enough.

He feels that he has satisfied all the concerns at this time.

John Bonham stated that the Town has spoken several times about this matter and would like to see a deed restriction placed on the deed.

Mr. Duckwall is willing to do a plat restriction, but not a deed restriction. He fills that the Residential Suburban zoning is restrictive enough, and does not feel that a deed restriction is needed.

Objectors:

Andrew Whipple, 9477 E 500 S, Upland

Mr. Whipple thanked everyone that had been listening to their concerns, but feels this would disrupt the flow of the community. He said there was nothing wrong with a commercial business, if it's in the right place. Mr. Whipple used the analogy of how his tie matched his suit that everything went together, but if he were to have worn a different tie that didn't match, his tie would have looked out of place.

You Ying W. Whipple, 9477 E 500 S, Upland

Mrs. Whipple stated that she disagrees with Mr. Duckwall that their property will depreciate. She also disagreed that there is a need for the storage. She did agree with Mr. Duckwall that since we do not know what the future will bring, but anything could go in there.

There was a discussion on the differences between covenant, plat restriction, or deed restriction. With a covenant the property owner would enforce the covenant, a plat restriction the Plan Commission would enforce the restrictions, and a deed restriction would be upheld by the courts.

Proof of publication is in the file.

Motion made by Jim McWhirt to give a favorable recommendation by deed or plat restriction, Dick Trobridge seconded. All members present voted yes, motion carried.

OTHER BUSINESS

Old Business:

The reasonable test from the August 6th meeting needed to be turned in to Ken Ellis.

New Business:

1AZM-07 – Amendment of the Zoning Map. In 2003, the Accommodation Business and Shopping Center zones were eliminated, which left 25 properties without zones. Ken Ellis stated that he drove the county to look at these properties and used the reasonable test in order to make a decision on what these properties needed to be. It was up to the Commission on what was to be done.

Motion made by Dick Trobridge to continue 1AZM-07 until the property owners are notified of the zoning change, Myron Brankle seconded. All members present voted yes; motion carried.

1AZT-07 – Participating Communities and Unincorporated Grant County to adopt State Building Code and designate enforcing agency and officials, and 1AZT-07 – Recodification go together. There are some communities that are recognized as being county jurisdiction and some are recognized as being State jurisdiction. In 2001, after 9/11 the State decided that the building codes needed to be recodified. In 2003, we did not update and come into compliance. All communities need to adopt the State Building codes. In Fairmount, there are commercial buildings that are being inspected by the State.

Motion made by Bob Highley for the formalization of paperwork to adopt State Building Codes and designate enforcing agency and officials, Myron Brankle seconded. All members present voted yes; motion carried.

1AZT-07 – Recodification.

Motion made by Dick Trobridge for the commission to adopt recodification, Jim McWhirt seconded. All members present voted yes; motion carried.

Amend Rules of Procedure 2.2 – BZA Composition

Ken Ellis explained that the old code was repealed in 2002, and the new code was put on the books. In 2001, the City of Marion pulled out of Area Plan, Gas City never was in, and there is only one Division of the Board of Zoning Appeals. The Board of Zoning Appeals should have been brought up to date, by having seven members on the board, instead of five members on the by law. Ken stated that he was working toward a broad representation of BZA members from the community.

Ken stated that he would like for the APC members to be thinking about this and to let there respective communities know about the open positions on the BZA. The Commission discussed that there can not be an elected official on the BZA.

The Commission took a five minute break with continued discussion.

The meeting reconvened with John Bonham stating that there were still some issues that the APC needed to face. He mentioned to the Commission members that they and those in the audience needed to see the pictures of Jackson's Dairy, it was a big undertaking for them to come into compliance with the State, and now Jackson's Dairy and Jason Sweets, both facilities are up and working.

John Bonham stated that there would be a lot of things happening, and as far as enforcement next year Ken did not ask for more money, because it wouldn't be there. He asked the other commission members to need to consider this and in August before budget time they could

discuss what is needed at that time and help with the process. He asked if there were any comments from the other Commission members.

Tony Manry stated that he drove along SR15 and could still smell Jackson's, and did not know how anyone could live beside them. Ken Ellis commented that Jackson told him that they would have to install an aerator to alleviate the smell, but they are holding long and will have the smell every time they agitate.

Myron Brankle stated that the local dairies are doing a good job to be in compliance, and that the foreign dairies are owned by the big conglomerates are not in compliance. The courts have stopped DeGroot in Huntington County from dumping manure. Manure is a problem.

A motion was made by Tony Manry for a three (3) year moratorium on Animal Feeding Operations, Myron Brankle seconded. Three members voted yes, five members voted no, and two members abstained from voting. Motion failed.

John Bonham requested to have Ken Ellis check with the Area Plan Attorney Bruce Elliott, before the meeting in November, to see if a moratorium of that length of time is legal.

Dick Trobridge stated that the Commission should have met even if there was nothing on the docket for that evening. He also stated that he had stopped at a CAFO, and that there was no odor, except for the fermentation of the silage. He stated that he had a pleasant time.

APC President John Bonham asked the audience if there was anyone that wanted to speak and they would be given two minutes to speak.

Byron Brankle, 501 S 4th Street, Van Buren

Mr. Brankle stated that he was disappointed that the Commission was not further than they were. He stated that there were 2 CAFO's near Van Buren area, one a new facility and the other an expansion. Manure application is important. Mr. Brankle mentioned that there was a farmer in the Van Buren area spreading manure on top of the snow and was in legal rights to do so because of the amount of corn stubble showing above the snow. Mr. Brankle asked "How would you like your home next to an application site?"

Lewis Smith, 6120 N 700 E, Van Buren

Mr. Smith stated that he had attended all of the meeting last year. He feels that water quality is an issue. He stated that manure application should be 300 yards from risers, ditches, oil wells and 1% incline risers in fields, and the manure can get into the water and pollute it.

Sandra Buckler, 3645 N 800 E, Van Buren

Mrs. Buckler let the Commission to know how upset she was that things had not gone further. She stated that she was there last December, when the Ordinance passed and it was said by the

Commission that they would work on the manure handling portion of the Ordinance this year. It is now October and there has not been any thing done all year. Now there are two new CAFO's coming in near Van Buren. She also stated that there needs to be a proposal made on manure handling, for the livelihood of the neighbors. Ms. Buckler thanked the Commission members for what they did last year, which stopped a CAFO from being placed near her.

A proposal was made by John Bonham, in that, the Executive Committee needs to meet with the Commissioners, and that the Executive Committee needs to schedule time to meet or start meeting immediately after the Plan Commission meetings to discuss what needs to be done.

Motion made by Tony Manry to adjourn the meeting, Dick Trobridge seconded. All members present voted yes; motion carried.

Meeting adjourned at 9:35 pm, and the APC Executive Committee met following the meeting for a brief discussion.

John Bonham, APC President