

**REGULAR MEETING MINUTES  
AREA PLAN COMMISSION  
February 2, 2009**

**THE REGULAR MEETING OF THE AREA PLAN COMMISSION OF GRANT COUNTY** was held on Monday, February 2, 2009 at 7:00 PM in a regularly scheduled meeting on the first floor of the Grant County Office Complex at 401 South Adams Street, Marion, Indiana. Members present: Mary Asher, Myron Brankle, Robert Couse, Jim Dickey, Gary Johnson, Jim McWhirt, Tony Manry, Dick Trobridge, John Woodmansee and John Bonham, President. Members absent: Dennis Fox (has the flu), David Glickfield and Bob Monroe. Staff present: Ken Ellis, and Debbie Wallace.

John Bonham brought the meeting to order with the Pledge of Allegiance.

**Motion:** Tony Manry moved Dick Trobridge seconded to approve the December 1, 2008 minutes as written. All members present yes; motion carried.

**Docket: 1RP-2009 (Public Hearing)                      Name: William Taylor Foundation**

**Address: Immediately west of Kershner Commons Phase I; Northeast corner of State Road 22 (Main Street) and 600 S (Berry Street)**

**Zoning District:** Residential Suburban

**Legal Description:** Being 12.66 acres, more or less and located in the Southeast Quarter of Section 3 in Jefferson Township (Upland Corporation).

**Request:** To approve the replat of Tracts A – F, Phase I, William Taylor Foundation/Kershner Commons, a residential planned unit development, which will have single family dwelling units.

**Joe Certain**, attorney with Kiley, Harker, and Certain in Marion, was present on behalf of the William Taylor Foundation. This is a residential development in Upland, Indiana; planned primarily to serve the Taylor University faculty and staff. It was originally planned in three phases; Phase I is 12.66 acres consisting of lots 1 – 6 which are single family homes; tracts A – M were to be duplexes (7 buildings with 14 units). Their request tonight is to change 4 of these lots to single family. These units would be approximately 1300 sq. ft. floor area. The 1 ½ storied homes would have 1000 sq ft ground floor; with not less than 1600 sq. ft. total living area. The covenant has been changed to reflect these changes. The only other changes are in lots A – F, the side lots have been changed by a few feet to meet setback requirements for this construction. This will not change any easements or rights-of-way. The Town of Upland gave their approval and no objections were made; the only questions were for clarification.

**AUDIENCE:**

**Barb Hess**, 287 E Berry Ave., Upland; she questioned if more villas were going to be put in, or are they going to be done with the villas at this point.

**Stephen Olson**, 211 Overlook Drive, Upland; Executive Director of William Taylor Foundation stated that once the fourteen lots are developed they have no plans to put more villas or duplexes in. Six units are built and they have eight lots left; four would be single family stand alone and four duplexes.

**Ken Ellis** requested that the staff findings would be adopted in the motion.

**MOTION:** Tony Manry moved Jim McWhirt seconded to approve docket #1RP-09 with the incorporation of the staff's findings of fact. All members present voted yes; motion carried.

**Docket: 2RP-2009 (Public Hearing)                      Name: William Taylor Foundation**

**Address:** Immediately west of Kershner Commons Phase I; Northeast corner of State Road 22 (Main Street) and 600 S (Berry Street)

**Zoning District:** Residential Suburban

**Legal Description:** Being 16.514 acres, more or less and located in the Southeast Quarter of Section 3 in Jefferson Township (Upland Corporation).

**Request:** To approve the amendment of Lots 9 – 11 and adding Lots 53 – 55, Phase II, William Taylor Foundation/Kershner Commons, a residential planned unit development, which will have single family dwelling units.

**Joe Certain** was present on behalf of the William Taylor Foundation. This petition has to do with Phase II; the amendment is to reconfigure lots 9 & 11 and to add lots 53, 54, and 55 to Phase II. They are also asking that the replat of Phase II & Phase III be approved this evening along with any necessary rezoning within the PUD. The restrictive covenant has been amended and restated with respect to Phase II to incorporate those changes; otherwise there are no other changes.

**Ken Ellis** stated there are two things to look at; the first issue is the expansion of the PUD, that's where you use your reasonable test; and if you are recommending this be approved; then we are asking that you approve the replat. To amend these primary plats they need to be recorded as we are amending. This has been before the Upland Town council and the proposed location of the streets and utilities were approved by the Town.

**John Bonham**, technically we are amending a plat that is not of record yet; it needs to be made of record. To approve this we also need to include that the plat needs to be recorded.

**AUDIENCE:**

**Dave Hess**, 287 E Berry Ave, Upland; has concerns with the drainage, feels this will increase the run off that they currently deal with. The existing pond overflows, the water goes right by the lower portion of his land and he wants to know if this will be taken care of. He also questioned if the single family dwellings would be the same type of architecture as the village at Warren.

**Stephen Olson** stated the villas would mirror the look of the duplexes in Warren.

**Ken Ellis** stated that they have engineered the correction of the pond and the drainage board approved it, it has not been completed yet.

**John Bonham** stated a building permit could not be issued on Phase II & III, prior to the drainage being corrected.

**Tom Jensen**, 159 E Berry Ave, Upland; there is some concern from the current residences that live along lots 4, 5, & 6 and so on; when the lots were originally purchased and the buyers were told of the next phase, they were assured that there would be more open space between them and the lots behind them; and there was concession given to some kind of a park or open area. There is also some concern with residences about walking to town and he questioned if sidewalks would be put in to connect the subdivision to the Town of Upland; and because of the way people drive through that area; he wanted to know if the Town had considered putting in a stop sign to slow the traffic. He also questioned if the lots would be sold in any certain order or did they have any projected time frame as to when these parcels would be sold.

**John Bonham:** Putting sidewalks along 600 S was not addressed, but the William Taylor Foundation will take care of the sidewalks within the subdivision. After speaking with the County Highway Department and on the advice of Upland's legal counsel, the determination was made that a stop sign would not be productive, but a speed limit sign would be and one has been posted. There has not been a formal request to have sidewalks put in along 600 S into Town.

**Stephen Olson:** The plan is to go forward with sixteen lots to be developed next; which would be nine through fifty-four on the east side of Silverman; eleven through sixteen going to the west on Ivanhoe Drive and lots thirty through fifty five. If those sixteen lots don't move quickly we won't move forward with expanding the lots in the twenties any time soon. The lots would be sold as the market dictates.

**Jenson:** The drainage issue would relate to these developments as well; and is there any plan for street lights? When the people purchased lots 1 -6 they were given the impression that there would be some open space between them and the lots to the west.

**Bonham:** This is a valid concern and you would need to follow up with the William Taylor Foundation on this issue.

**Certain:** The drainage will be corrected before this development starts construction; there are no street lights planned at this time; and only a small sign at the entrance. There is no green area planned for that space.

**MOTION:** Jim McWhirt moved Dick Trobridge seconded to give a favorable recommendation to the Upland Town Council to expand Kershner Commons Phase II & III PUD ordinance. All members present voted yes; motion carried.

**MOTION:** Tony Manry moved Jim Dickey seconded to approve the replat contingent that the Phases be recorded within thirty (30) days. All members present voted yes; motion carried.

**Docket: 01Z-09 (Public Hearing)**

**Name:** Clifford Bragg

**Address:** 7500 E N00S, Marion, IN

**Zoning District:** Residential Suburban

**Legal Description:** Being a part (39.78 acres) of 126 acres more or less and located in the Northeast Quarter of Section 08 in Monroe Township

**Request:** To change the zoning from Residential Suburban to Industrial -3

**Tom Hunt**, attorney with Kiley, Harker and Certain, at 300 W 3<sup>rd</sup>, Marion was present representing the petitioner; Randy Miller & Josh Norton from RMA were also present. RCI Development has a prospective purchaser for the property; their intent is to develop 39 acres within the 126 acre tract. The old landfill lies to the west and south of the 39 acre area. This company has been in business for over 150 years, they currently have 400 employees. This is to develop an asphalt batch plant with concrete applications. There will be 10 employees to start and possibly add 6 more in the future. The operation will mainly be open during the construction season (April through November). The normal hours of operation are 7AM until 5PM. The entire area is currently zoned Residential Suburban (RS) and Indiana Department of Environmental Management (IDEM), because of the landfill, will not allow any RS uses. The buyer is willing to remediate the landfill through IDEM, and follow all the regulations placed by IDEM. The rezoning will allow for growth and an increase in taxes. It is heavily buffered along the north side of the property. They have either contacted or attempted to contact all the adjoining property owners; and have heard from no objectors. His clients have been involved with and will be required to enter into an agreement for a final closure of the landfill with IDEM. There has been a discussion with Ken Ellis regarding deed restrictions. The intent is not to have fuel storage or mining other than what is a natural part of the operation of the company. The technical review committee met on January 14<sup>th</sup> and approved this site plan.

**John Bonham** stated that the tech review did meet and go over the site plan. Some of the concerns that were raised are listed in the packet to the board members. The Emergency Management Agency, Grant County Health Dept. and Grant County Surveyor were all present at the meeting. The site plan that was submitted was approved by the Executive Committee.

**Andy Norton**, RCI development, 2020 E Washington Blvd, Ft. Wayne, Indiana; stated the clients have agreed to go over the landfill and test the thickness of the cap; they have met with IDEM on the site. A letter to IDEM is being prepared listing what they will do. IDEM will review and have to approve the items listed. They will have to remove all vegetation and trees, and then grade the property until they have a minimum thickness of two inches on the caps. IDEM has requested that they place monitoring wells to test for methane gas and will the new owner will have to repair and maintain existing wells.

**Gary Johnson**, board member, questioned if this would be recycling for concrete.

**Randy Miller** stated it is a typical asphalt plant; it sometimes will bring in concrete that has been broken up; remove the iron from it; break it into small pieces and put it into the additive, whether it is for asphalt or concrete.

**AUDIENCE:**

**Kim Herr**, 7288 E N00S, owner of property to the west of this tract; questioned what they were going to do with the rest of the property; if the existing entrance was going to be used and will State Road 18 be widened. Mrs. Herr also wanted to know if they would have any outside storage.

**Miller:** the land the landfill is on can never be used; it will be capped off and maintained. There will be some outside storage in the areas indicated on the site plan. Any widening or improvement of SR 18 would have to be approved INDOT.

**Hunt:** the wooded area will not be touched and the landfill is all south of that.

**Jim McWhirt**, board member, questioned which neighbors were not contacted.

**Tom Hunt** stated that they contacted everyone except Billy Dingus, Michael Priest, the Sizemores, and Mr. Baldwin.

**John Neargardener**, 8171 E 100 S; is concerned about possible air pollution, if all storm water will be collected in the retention pond; then drain into an existing ditch and will it be monitored. Are permits required from IDEM? Where will trucks be cleaned; where would the clean out go and if chemicals are used where would they go.

**Miller** stated that all permits from IDEM will have to be issued before the operation can start up; the drainage will be monitored. The detention pond would be clean water only, it is a dry basin; chemicals used in cleaning would not go into the pond.

**Neargardener** also questioned if trucks would be stored on site.

**Hunt:** there may be a few company owned trucks stored on site from time to time, depending upon the type of jobs they are dealing with at the time. They do not anticipate a large number of trucks stored on site at the same time.

**Neargardener:** if a monitoring well detects methane would IDEM determine what must be done to correct the problem.

**Miller** once it is brought up to IDEM standards any problems with the landfill would have to be brought into compliance or the asphalt company could be shut down.

**Bonham** the Board has not received or seen the agreement with IDEM yet. IDEM has been on site but hasn't responded to the final agreement from the owner on both the landfill and their operations. But there will be contingencies within that agreement that have to be complied with.

**Herr** questioned what could go into I-3 if this property is rezoned.

**Hunt** there will be a deed restriction, placed on the deed and recorded, that restricts the use of the property, this stays with the property when it is sold.

**Bonham** if anyone ever wants to change the restrictions, they must go in front of the Grant County Area Plan and Grant County Commissioners for the changes and public hearings would be required.

**Tim Eckerle**, Grant County Economic Growth Council, 301 South Adams, Marion; presented a letter in favor of this rezoning. Growth Council Board of Directors has reviewed this project and wholehearted endorses this. Believes this is a good way to resolve an ongoing matter with an IDEM issue.

**Mary Asher** questioned if this will cause the property to be less hazardous then if left in the condition it is now and would the site ever be safe

**Hunt** When the new owner takes title to this property he assumes the responsibility of the landfill and is responsible to IDEM to get it closed the correct way. There is no Federal pressure on IDEM regarding CAFO's but there is considerable pressure on IDEM to monitor these sites.

**Miller** once it is capped it will be monitored so it does not spread. It would take forty plus years before any of the materials would start to deteriorate.

**Neargardener** has there been any research done as to how the company's other sites affect property values around them. This site has been an ongoing issue with IDEM and they haven't been able to get any closure on this. If this issue does arise will there be some sort of clause that would not allow this company to continue until the problem is corrected.

**Hunt** there will not be any permits issued by IDEM to begin operations if they do not met the qualifications. One of the problems in the last twenty-five years is there was no money to take care of this. This is a very expensive proposition to rehabilitate an area in which there was a landfill. This company has the money and is willing to spend the money; if they don't IDEM will not let them open.

**Bonham:** the company coming in has requested to stay off the record; we do not know who the company is; at some point we do need to know the company before we give approval.

**Hunt** if you give a favorable recommendation tonight, we still have to go to the County Commissioners and we will be in a position to divulge the identity of the company at that time.

**Bonham** for the record we want to be clear that any stock piling is restricted to the rezoned area and on no other part of the ground. You would have to come back and rezone the other part of the parcel should any expansion be needed or wanted.

**Hunt** one of the permitted uses in the deed restriction would be to allow farming, not animal farming, but grain farming of some kind.

Proof of publication is on file.

**MOTION:** Jim Dickey moved Gary Johnson seconded to give docket #01Z-09 a favorable recommendation to the Grant County Commissioners with the following conditions: the deed restriction and landscaping approved through the Area Plan Office. All members present voted yes; motion carried.

## **OTHER BUSINESS:**

### **Overlay Committee:**

The Executive Committee has the handouts to review and send comments or recommendations to the Area Plan office. At this time none have been received. The next Executive Committee meeting will be held on March 11, 2009 at 9AM in the council chambers. The office will have something to bring to the Plan Commission in May.

### **Election of Officers:**

The nominations from the December 2, 2008 APC meeting were as follows:

John Bonham for President and Tony Manry for Vice-President; no other nominations were made.

**Motion:** Dick Trobridge moved Tony Manry seconded that nominations be closed.

The following votes were taken:

All members present voted for John Bonham for president; except John Bonham who abstained; motion carried.

All members present voted for Tony Manry for Vice-President; motion carried.

**Motion:** Dick Trobridge moved Jim McWhirt seconded to adjourn the meeting. All members present voted yes; motion carried. Meeting adjourned at 8:45 pm.