

ROLL CALL

Harry Baumgartner, Jr.	Jerome Markley
	Keith Masterson
Jarrold Hahn	Mike Morrissey
Bill Horan	Tim Rohr
Richard Kolkman	John Schuhmacher

Michael Lautzenheiser, Jr., Director

The June 6, 2013 meeting of the Area Plan Commission was called to order at 7:30 p.m. by President Jerome Markley. Nine members were present for roll call. Angie Dial and Finley Lane were absent

APPROVAL OF MINUTES:

Bill Horan made a motion to approve the minutes from the April 4, 2013. Tim Rohr seconded the motion; the motion carried 7-0-2 with Jarrod Hahn and Mike Morrissey abstaining. Jarrod Hahn made a motion to approve the minutes from the May 2, 2013. John Schuhmacher seconded the motion; the motion carried 9-0.

NEW ITEMS:

A13-06-13 HARRISON TWP., NE/4 09-26N-12E Wells County 4-H Association requests approval for a development plan for a 60 space stone parking lot. The property is located at 1240 4-H Park Rd. Bluffton, IN 46714 and is zoned R-1.

Bill Horan recused himself due to conflict of interest.

Joel Hoehn, Stody Associates, represented the 4-H stated that they are planning on adding a stone parking area. The drainage for the stone lot will shed northeast to an existing small detention basin behind the grounds keeper’s house. There is currently a 4in tile that runs southeast to northwest through that area. There are three tiles that open into that basin. He stated that they are going to determine the best of those tiles and put a riser in. Then grates will be put over the other two and covered with stone. He explained that the water will get into the Schwartz tile drain, which cuts into a portion of the parking lot. The water will then go south and hit DeLong Ditch. Mr. Hoehn explained that the 4-H was granted approval by the Drainage Board to have the parking lot go over part of the east/west section of tile. He then went on to discuss the road and the fact that the city owns the road but that the 4-H park maintains it. They are having a meeting with the mayor to have the city vacate it. He stated that the 4-H anticipates leaving the lot as gravel at this point in time.

Doug Sundling explained the history of the park, the road, and when the city annexed it. He stated that the city has never taken care of the road. He said that even if the city vacates the road that there would still be an easement left for the existing utilities.

Conditions:
Motion to Approve: Jarrod Hahn
Second: John Schuhmacher
Vote: 8-0

A13-06-14 LANCASTER TWP., NE/4 33-27N-12E MidLand, LLC requests approval for a development plan for two new docks. The property is located at 990 N. Main St. Bluffton, IN 46714 and is zoned B-3.

Brett Miller, MLS Engineering, stated that they are going to add a 575sqft addition with two loading docks in order to make it a marketable facility for warehousing. Due to the docks and semi traffic, they will be adding 5,000sqft of asphalt on the south side of the existing building. The new asphalt will encroach on the existing detention basin; therefore they are going to fill in the north side of the basin and enlarging the south side. He explained that where the addition is going that they have to reroute a new water line around the docks and a fire hydrant on the south side of the building will be relocated to be out of the way of semi traffic. Mr. Miller next addressed items that came up at the Plat Committee, which were the private water line, the fire connection being broke, and traffic flow for semis. He stated that the proposal is to have the semis coming off of Dustman Road use the east entrance for the north dock and for the south dock, the semis would come in through the west entrance off of Dustman Road. He explained that a light pole on private property west of the west entrance may need to be relocated due to the semi traffic.

Doug Sundling provided the board with a letter that summarized what was discussed at the Plat Committee meeting and that the questions that he had were answered by Mr. Miller's statement. He advised that there is no water shut off valve on the outside of the building due to frozen pipes, which caused flooding. Therefore the water has been turned off at the main line and will remain shut off until that issue is resolved. Mr. Sundling also commented on the location of the light pole at the west entrance and the possibility of a semi clipping the pole.

Conditions: The property owner and the city reach an agreement on fire protection and the waterline issue.

Motion to Approve: Jarrod Hahn

Second: Mike Morrissey

Vote: 9-0

A13-06-15 JEFFERSON TWP., NE/4 21-28N-12E Harry T. & Lois A. Gerber request approval for a development plan for new U-store storage units. The property is located on Hillcrest Drive, Ossian, IN 46777 and is zoned B-3

Joel Hoehn, Stoodly Associates, stated that the owner would like to put a total of eight storage buildings on the property. However they only want to put one up at this time and the rest would be constructed as needed. The William Smith legal drain is the west property line, which the property will directly drain into the ditch. He stated that there is about 60ft that will shed to the west and out on to the existing street, which will flow to the south and then will also make its way into the ditch. The buildings will be 30ft x 170ft, which match the existing buildings. They will also be the same type of construction as the existing buildings. Mr. Hoehn stated that at there will be a drive next to each structure and at the end of each drive there will be riprap on the edge of the ditch to help protect erosion.

Jarrod Hahn stated that the owner had already been granted permission from the Drainage Board to put structures in the easement in the 1990's. They are permitted to construct within 25ft of the top of the bank.

Conditions:

Motion to Approve: Jarrod Hahn

Second: Harry Baumgartner, Jr.

Vote: 9-0

A13-06-16 HARRISON TWP., NE/4 04-26N-12E L, M, & H Investments Inc. requests approval for a development plan to change the roof of a structure. The property is located at 112 & 116 S. Main St., Bluffton, IN 46714 and is zoned B-1.

Joel Hoehn, Stody Associates, explained that they are getting rid of the east/west sloped roof and changing the roof to a new 5/12 pitched roof. The north and south sides of the building will have a commercial sized gutter. There is an existing commercial sized gutter on the west end of the building. The water sheds into the alley along the west side of the property. Then the water flows south to Washington Street, where it runs in to many different storm sewers.

Conditions:
 Motion to Approve: Mike Morrissey
 Second: Bill Horan
 Vote: 9-0

A13-06-17 LANCASTER TWP., SE/4 33-27N-12E Almco Steel Products requests approval for a modification to approved development plan A13-01-02 for the addition of 10,125sqft. The property is located at 173 N. Oak St. Ext., Bluffton, IN 46714 and is zoned I-2.

Phillip Knickrehm, with Grand Industrial, explained that this is a request to expand an already approved development plan that has not been constructed. The petitioner decided that the original design did not give them enough area. The plan has not changed other than stretching the building about 43ft to the north. The use will still be for storage of steel dyes and no production inside this structure. He stated that the house on the north side of the property will be removed. Mr. Knickrehm advised that the drainage patterns and traffic patterns will all be the same. He stated that the structure was about 20,500sqft and will now be about 30,600sqft. He explained that with the increase in the structure size that the detention pond was also increased. He stated that the existing water and sanitary lines that go to the house will be used for the proposed structure. Mr. Knickrehm advised the board that the petitioner has applied for a variance, which will be heard later in the month. He stated that they had previously been granted the variance for the initial development plan for this project.

Doug Sundling stated that Almco is cutting part of Hale Street to put in reinforced concrete with heat in it to melt snow so that the forklifts can go back and forth between the buildings. He explained that the city attorney is drawing up a legal agreement that states Almco will be responsible for maintaining that area. He also stated that the city would like an agreement about the storm water which flows from one parcel and is detained in another parcel. Mr. Sundling explained that the documents are not needed for construction to occur.

Conditions: BZA Approval of the variance
 Motion to Approve: Mike Morrissey
 Second: Jarrod Hahn
 Vote: 9-0

Andy Antrim – Development Plan Case Law report

Andy Antrim, attorney for the Area Plan Commission, addressed the board and started by explaining the legislative bodies. He stated that they were explained in IC 36-7-4-1400 section. He then specifically listed 36-7-4-1401.5 notes what the legislative body can do in a zoning ordinance. It also goes on to explain the role of the plan commission in hearing a development plan. Under this section, a legislative body means a city/town/commissioners of a county. Under IC 36-7-4-1402, in the zoning ordinance the legislative body adopting the ordinance must specify the requirements that a development plan needs to meet in order for approval and in IC 36-7-4-1403 it lists some of those requirements. Mr. Antrim stated

that modifying an ordinance is similar to that and explained how the APC recommended changes but it was ultimately the legislative body's decision to approve them. He reiterated that the APC is not a legislative body. Once the requirements are established by the legislative body, it is the APC's duty to review the development plan petition and determine if the plan meets the zoning ordinance requirements and is consistent with the comprehensive plan, which is explained in IC 36-7-4-1405. Mr. Antrim stated that the Indiana Court of Appeals has confirmed that the laws in the statutes give the county's legislative body broad discretion in determining the requirements that must be satisfied for the development plan.

Mr. Antrim then went into Indiana case law. He began with Hendricks County Board of Commissioners v. Rieth-Riley Construction Company and stated that it can be located at 868 N.E. 2nd 844 page 853. He stated the facts behind this court case, which Rieth-Riley leased land to construct a hot mix asphalt plant. The Hendricks County ordinance classified the real estate as major industrial and the surrounding land was similarly zoned. There was no residential use in the immediate vicinity. In 2005, Rieth-Riley submitted their development plan application according to the ordinance. Mr. Antrim read the Hendricks County ordinance for development plans, which only listed three requirements. The appeal court found the ordinance to be void and unenforceable because it didn't satisfy the requirement for specific standards. He then quoted again from the case, which stated that the ordinance did not provide the land owners with fair warning on what the governing body would consider when formulating its decision.

Then, Mr. Antrim stated that our county ordinance has specific requirements that need to be met. He listed some of the requirements from Article 14, 15, and 16. These articles are more specific than the ordinance in that case. It gives the petitioner boundaries. The plan commission then plays a ministerial role, once the ordinance is created, by reviewing the plan and making sure it meets the ordinance.

Next, Mr. Antrim explained the 2011 case of Kroger v. Town of Plainfield and stated that it can be located at 953 N.E. 2nd 536. He summarized the facts of the court case, which was that Kroger wanted to construct a fuel center on their property. The Plan Commission of Plainfield chose to deny the development plan petition and stated that it was not appropriate to the site or surroundings, it was not consistent with the ordinance, and it created a public safety hazard. The courts did find the Plainfield Ordinance did supply the specifics that Rieth-Riley did not. He then read through the Plainfield Zoning Ordinance. He stated that the court had a problem with the Town of Plainfield's findings, due to the fact that they were not specific in the reason why the petition didn't meet the requirements, which is what is required under IC 36-7-4-1406. The denial needed to be specific and point out where the plan did not meet the ordinance and site what on the plan caused this not to be met. The petitioner needs to know what could be done specifically to correct their petition.

Finally, Mr. Antrim reiterated that the APC was just a ministerial body and that when a motion is made it must be specific. He restated that our county ordinance is specific in giving what is required of a petitioner for a development plan. He explained the chain from trial court to the court of appeals and commented on how it worked with some of the case law that he previously discussed. He also explained that in our ordinance it states that the board has to act within a certain time frame and if no decision is reached, then it would be possible for a petitioner to attempt to get some type of ruling from a court.

Director salary discussion & 2014 Area Plan Office Budget review

The board went over the information that was provided to them about the different levels of pay for the director and each level had different criteria to determine that pay amount. They discussed where the director currently is and what parts of the different criteria he has met. They also went on to talk about what was discussed when the director was first hired in. The County Council started the director at level two pay. The board discussed that this is just a recommendation to the County Council, but in the end it is their decision on what his pay rate should be.

Amanda Studebaker informed the board that the 2014 budget information was misplaced and did not end up in the members' packets. She briefly told the board of certain line items that were being decreased.

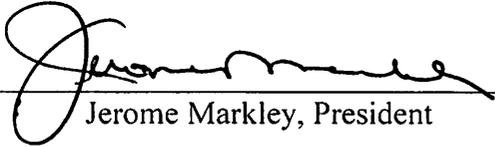
Motion to present the director salary criteria to County Council for their determination: Jarrod Hahn
Second: Mike Morrissey
Vote: 9-0

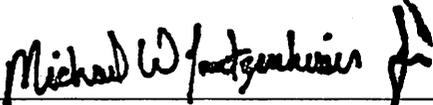
DISCUSSION:

Jerome Markley updated the board on the comprehensive plan. He stated that the discussion at the last Steering Committee meeting was if there was enough public input with the questionnaires. He stated that the committee believed that the public had enough time and they would use the data that they currently have. The writing of the rough draft of the comprehensive plan will be done between now and August. By September, the director hopes to have a draft for the APC to review it and have public hearings on it before going to legislative bodies to be voted on by December 31st.

ADVISORY:

Mike Morrissey made a motion to adjourn the meeting. John Schuhmacher seconded the motion and the motion passed with a vote of 9-0. The June 6, 2013 Area Plan Commission meeting adjourned at 9:18p.m.


Jerome Markley, President

ATTEST: 
Michael Lautzenheiser Jr., Secretary