

AREA PLANNING COMMISSION MEETING
MINUTES June 10TH, 2020
6:00 P.M.

President Marvin Rees called the meeting to order at 6:00 P.M.

ROLL CALL: Bruce Levi, Ralph Adams, Jeff Slaton, Vice President, Tom Monka, Ben Wicker, Phil Shanahan, Mary Richardson, Kelly Land, Marvin Rees, President. Also present were Geoff Wesling, Attorney; and Gregg Duke, Director.

APPROVAL OF MINUTES of May 13th, 2020. Hearing no corrections or additions, Mr. Adams made the motion to approve the minutes as writte, seconded by Mr Wicker. Voice vote for approval was unanimous.

NEW BUSINESS:

- 1. Mr. Rees introduced APC 2020-9 Wilson and Mary Brooks and agent Andy Scholle are requesting secondary approval for a single-lot subdivision located at 5527 S 650 West in Orange Township Parcel # 70-10-31-300-003.000-005. Mr. Duke gave the following findings:**

Findings of Fact:

The Brooks received primary plat approval to create a 2 acre subdivision on May 13, 2020 contingent upon receiving a variance to development standard 7.10.2(a & d1), (lot area, and front yard housing setback) from the BZA. On June 9, 2020 the Brooks received the variances to allow the subdivision.

Recommendation:

Planning staff recommends secondary approval.

Mr. Shanahan motioned to approve primary plat, seconded by Mr. Slaton. Voice vote was unanimous.

- 2. Mr. Rees then introduced APC 2020-10 4 Daughters Dirt and agents Katrina and Kyle Meal are requesting secondary approval for a single-lot subdivision located at 8900 W. 900 South in Orange Township Parcel # 70-13-14-300-005.000-005. Mr. Duke gave the following findings:**

4 Daughters Dirt received primary plat approval to create a 5.021 acre subdivision on May 13, 2020 contingent upon receiving a variance to development standard 7.10.2(a), (lot area) from the BZA. On June 9, 2020 4 Daughters Dirt received the variances to allow the subdivision.

Recommendation:

Planning staff recommends secondary approval.

Ms. Richardson motioned to approve primary plat, seconded by Mr. Adams. Voice vote was unanimous.

- 3. Mr. Rees then introduced APC 2020-8 Brian and Ginger Bates and Agent Patrica Parsons are requesting a Property Rezone at 4733 E. Base Road in Glenwood (parcel # 70-11-01-200-005.000-004). Mr. Duke gave the following findings:**

Ms. Parsons is requesting the APC to rezone an 11 acre parcel of property located at 4733 E. Base Road from A-3 Regulated Livestock to A-1R Transitional Agricultural. The applicants would like to put a commercial entity in the dwelling identified as "Other Group Quarters". This use is designated as a permitted use. The census Bureau defines "Group Quarters" as follows:

A group quarters is a place where people live or stay in a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. This is not a typical household-type living arrangement. People living in group quarters are usually not related to each other. Group quarters include such places as college residence halls, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

According to IC 36-7-4-603, the following items must be taken into consideration when considering rezones:

In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to: (1) the comprehensive plan; (2) current conditions and the character of current structures and uses in each district; (3) the most desirable use for which the land in each district is adapted; (4) the conservation of property values throughout the jurisdiction; and (5) responsible development and growth.

1. The Comprehensive Plan – Encourage agricultural, recreation, tourism, homestead, business and commerce development to increase tax base. This rezone will allow commercial uses in a predominantly agricultural area.
2. Current Conditions - The parcel in question is currently a residential use in an agricultural zone. Closest deviation in the A-3 zoning district is 1.2 miles Northeast and is Commercial.
3. Desirable Use – The surrounding zoning is all agricultural. Rezoning this to A-1R Transitional Agricultural keeps it as agricultural but allows a business such as Other Group Quarters.
4. Conservation of Property Values – Property values would likely not be affected since the zoning in the area will continue to be agricultural. Surrounding zoning is all agricultural.
5. Responsible Development and Growth – This particular use requires some isolation. Since most of the isolated property in Rush County is A-3 this may be the only option for this use.

The hearing was published locally and adjacent property owners were notified.

Excerpts from Rush County Comprehensive Plan Goals and Objectives

The purpose of planning and zoning in Rush County is to improve the health, safety, convenience, and welfare of the citizens and to plan for the future development; to the end:

3. That the needs of industry and business be recognized in future growth;

Article IV

Goals and Objectives

7. Encourage agricultural, recreation, tourism, homestead, business and commerce development to increase tax base

Recommendation:

Planning staff recognizes a dissonance between reducing agricultural in the A-3 areas and increasing tax base through other means. Rezoning this property will not reduce farm ground, and should increase tax base. Further, since dwellings are normally a non-conforming use in an A-3 district, A-1R would bring the dwelling into permanent conformity as a permitted use and potentially allow it as a business use. Planning staff recommends zoning the parcel at (parcel # 70-11-01-200-005.000-004) roughly identified as 4733 E. Base Road to Transitional Agricultural (A-1R).

Mr. Duke then read into the record in opposition of the rezone, letters from Richard Craven, Chris Ripberger, and Marc Kollander. Patty Parsons, and Eric Moore gave brief presentations to support the rezoning of the Bates property. Grant Reeves then gave a brief presentation in opposition of the rezoning. Mr. Reeves asked if supporting evidence, including petition signed by 48 individuals, was sent to the APC Board prior to the meeting. Mr. Duke affirmed. Speaking in support of the rezoning proposal was Mary Ann Stanley, Rick Stanley, and Dr. Mady Stazzore. One person spoke in favor via Zoom teleconference. The Board debated the merits and problems of the issue. When discussion was completed Mr. Slaton motioned the Board to send a vote of "No Recommendation" to the Commissioners. The motion died due to lack of a second. Mr. Slaton then motioned a favorable recommendation be sent to the Commissioners and was seconded by Mr. Monka. A roll call vote resulted in the following:

Two ayes

Five nays

Two abstentions

Favorable recommendation was defeated.

Mr. Wicker motioned an unfavorable recommendation be sent to the Commissioners, seconded by Mr. Slaton. A roll call vote resulted in the following:

Five ayes

Two nays

Two abstentions

Motion passed to send an unfavorable recommendation to the Commissioners. Mr. Wicker gave guidance to the findings of fact as presented below:

Ms. Parsons is requesting the APC to rezone an 11 acre parcel of property located at 4733 E. Base Road from A-3 Regulated Livestock to A-1R Transitional Agricultural. The applicants would like to put a commercial entity in the dwelling identified as "Other Group Quarters". This use is designated as a permitted use. The census Bureau defines "Group Quarters" as follows:

A group quarters is a place where people live or stay in a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. This is not a typical household-type living arrangement. People living in group quarters are usually not related to each other. Group quarters include such places as college residence halls, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

According to *IC 36-7-4-603*, the following items must be taken into consideration when considering rezones:

In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to: (1) the comprehensive plan; (2) current conditions and the character of current structures and uses in each district; (3) the most desirable use for which the land in each district is adapted; (4) the conservation of property values throughout the jurisdiction; and (5) responsible development and growth.

1. The Comprehensive Plan – The Comprehensive Plan seeks to promote agricultural and business development at the same time. But the Planning Commission feels the Comprehensive Plan highly favors agricultural.
2. Current Conditions - The parcel in question is currently a residential use in an agricultural zone. Closest deviation in the A-3 zoning district is 1.2 miles Northeast and is Commercial.
3. Desirable Use – The surrounding zoning is all high intensity agricultural. Planning Commissioners felt changing one small 11 acre parcel gave the appearance of spot zoning.
4. Conservation of Property Values – Two diametrically opposed reports were presented at the public hearing. Property values were not seen as an issue.
5. Responsible Development and Growth – The Planning Commission feels rezoning this property to Transitional Agricultural would create a future conflict between surrounding Regulated Livestock uses and potential Transitional Agricultural uses.

Recommendation:

Area Planning Commission recognizes a dissonance between reducing agricultural in the A-3 areas and increasing tax base through other means. A few factors influenced the Planning Commissioners decision. First the Comprehensive Plan seeks to encourage both agricultural and businesses, but this area has long been designated intensive agricultural. Planning Commission found no overwhelming need to change this other than financial needs of one small area. Second, a new zoning allowance could allow potentially conflicting uses in the future between industrial agricultural and light agricultural without an enhanced support system to support the attached uses. Finally, the Planning Commissioners would like to avoid the appearance of spot zoning and its implications. Planning Commission recommends denying the rezoning of parcel # 70-11-01-200-005.000-004, also identified as 4733 E. Base Road, to Transitional Agricultural (A-1R).

4. Mr. Rees then introduced APC 2020-13 M. Deryl Souder Jr. and agent Andy Scholle are requesting a two-lot subdivision located at 7333 N. 900 West in Ripley Township Parcel #s 70-01-27-400-004.000-008, and 70-01-27-400-002.000-008. Mr. Duke gave the following findings:

The original parcels of land are 80 and 43.067 acres. This survey seeks to combine two parcels before subdividing two parcels out. The proposed subdivisions from the original parcels would be 12 acres (lot 1), and 7 acres (lot 2). This leaves a remaining parcel size of 103.067 acres (Tract 1). The land is being subdivided to allow the Souders to separate a dwelling from agricultural land and create a building lot.

The proposed subdivisions do not meet the following Development Standards as set forth in the A-3, Regulated Livestock District of the Rush County Zoning Ordinance:

7.10.2 Developmental Standards

- a. Minimum Lot size is forty (40) acres.

d. Yard Setbacks for Housing

1. Minimum Front Yard Setback is one hundred feet (100') which shall be measured from the edge of the public right-of-way.

The proposed 7 and 12 acre lots are less than the 40 acres required and will need a variance to 7.10.2(a) granted by the BZA.

The proposed 12 acre lot (Lot 1) has a house with a 50 foot front yard setback and will require a variance to 7.10.2(d1) granted by the BZA to allow a housing setback of less than 100 feet from the ROW.

The proposed subdivision complies with all standards as set forth in Title III, Requirements and Principles, of the Rush County Subdivision Control Ordinance with exception of the variances listed above. All application materials (including the property owner affidavit and deed of dedication), plat drawings, and legal notice comply with Title IV, Procedure, of the Subdivision Control Ordinance. All adjoining neighbors were notified by mail.

Recommendation:

Planning staff recommends primary plat approval contingent upon the variances being requested and received from the Board of Zoning Appeals to 7.10.2(a) to allow lot sizes of 12 and 7 acres. This subdivision should also be contingent upon variances being received for 7.10.2(d1) to allow a 50 foot housing setback on lot #1.

No public comment was given.

Mr. Adams motioned to approve primary plat, seconded by Mr. Land. Voice vote was unanimous.

5. Mr. Rees then announced APC 2020-14 Alton Gordon Farms with Ruth Armstrong and agent Julie Newhouse are requesting a subdivision located at the 300 block of E. 1000 North in Washington Township Parcel # 70-03-14-200-002.000-015. Mr. Duke gave the following findings:

The original parcel of land is 38 acres. The proposed subdivision from the original parcel would be 1.1833 acres. This leaves a remaining parent parcel size of 36.8167 acres. The land is being subdivided to allow the Alton Gordon Farms to sell a small parcel to an adjoining land owner. The APC office already has a copy of the replat survey to join the two properties.

The proposed subdivision does not meet the following Development Standards as set forth in the A-3, Regulated Livestock District of the Rush County Zoning Ordinance:

7.10.2 a. Minimum Lot size is forty (40) acres.

The proposed 1.1833-acre lot is less than the 40 acres required and will need a variance to 7.10.2(a) granted by the BZA. The remainder of the parent parcel of 23 acres will also require a variance.

The proposed subdivision complies with all standards as set forth in Title III, Requirements and Principles, of the Rush County Subdivision Control Ordinance with exception of the lot size and the variances listed above. All application materials (including the property owner affidavit and deed of

dedication), plat drawings, and legal notice comply with Title IV, Procedure, of the Subdivision Control Ordinance. All adjoining neighbors were notified by mail.

Recommendation:

Planning staff recommends primary plat approval contingent upon the variances being requested and received from the Board of Zoning Appeals to 7.10.2(a) to allow a lot size of 1.1833 and 36.8167 acres at the 300 block of E. 1000 North.

Mr. Shanahan noted findings of fact on the third paragraph should read 36.8167 acres, not 23. Julie Newhouse gave a brief presentation. No public comment was given.

Mr. Monka motioned to approve primary plat, seconded by Mr. Adams. Voice vote was unanimous.

OLD BUSINESS:

REPORTS:

Attorney: Mr. Wesling had nothing to add.

Director: Mr. Duke had nothing to add.

Adjournment:

Mr. Monka made the motion to adjourn the meeting. Seconded by Mr. Slaton. All were in favor. Meeting adjourned at 8:00 P.M.

Marvin Rees
President

Gregg Duke
Executive Director