

AREA PLANNING COMMISSION MEETING  
MINUTES MAY 13TH, 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 March 11th, 2020. Hearing no corrections or additions, Mr Wicker made the motion to approve the minutes as written. Seconded by Mr Slaton. All in favor. Minutes were approved.

**NEW BUSINESS:**

1. **APC 2020-4** Phillip Kuhn is requesting secondary approval for a single-lot subdivision located in the 3300 block of N. 240 East in Union Township.

Mr. Rees asked Gregg to give the Findings of Fact: Mr. Kuhn received primary plat approval to create a 6 acre subdivision on March 11, 2020 contingent upon receiving a variance to development standard 7.10.2(a), (lot area) from the BZA. On May 12, 2020 Mr. Kuhn received the variances to allow the subdivision. Additionally, Mr. Kuhn received a Special Exception to construct a dwelling in the A-3 district.

**Recommendation:** Planning staff recommends secondary approval.

Mr. Rees asks questions from the Board. There was none. Mr. Rees asked questions from the audience. There was none. Mr. Rees asked the Boards pleasure. Ralph made the motion to approve the Secondary plat. Seconded by Phil. All in favor. Secondary plat was approved.

2. **APC 2020-6** Terry Beard is requesting a Property Rezone at roughly 282 E SR 44 in Rushville (parcel # 70-11-05-153-012.000-010). Mr. Beard was in attendance.

Gregg gave Findings of Fact as follows: Mr. Beard is requesting the APC to assign a Commercial (C) zoning classification to a 2.43 acre parcel of property located roughly at 282 E SR 44. This parcel only has the designation of Floodplain (FP), but for construction purposes it is protected by the levy. The Department of Natural Resources does not limit construction in this area. Other areas in the County already have underlying zoning designations. Several parcels in the area are also lacking underlying zoning. A designation of floodplain does not allow for construction of any type. Mr. Beard would like to develop a commercial use on this property. This property is on the State Road 44 corridor and is 335 feet from the city's Commercial zoning, but is separated by residential zoning. Commercial zoning is also 106 feet to the North.

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 on a State Road corridor.
2. Current Conditions - The parcel in question are currently not being used for any activity. As we seek the highest use of property, rezoning will help accomplish this.
3. Desirable Use – The surrounding zoning is residential, commercial, and agricultural. This would be a desirable extension to the city. While most of the parcels in question are used for agricultural purposes the area is also residential. It could be seen as a logical expansion area for the Rushville community.
4. Conservation of Property Values – Property values would likely not be affected since the zoning in the area is compatible with closest zoning.
5. Responsible Development and Growth – Commercial and residential use on a corridor would be considered appropriate and does not deviate from existing uses.

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

**Excerpts from Rush County Comprehensive Plan Goals and Objectives**

With the bulk of the City of Rushville being formed and built-out, the outlying areas are the primary focus for this long-range planning. The makeup of the three highway systems, State Road 3, State Road 44 and US 52, create a central hub at the heart of the downtown of Rushville. These highway “spokes” are the apparent corridors to direct the future commercial growth.

**Planning Staff Recommendation:** Planning staff recommends zoning the parcel at (parcel # 70-11-05-153-012.000-010) roughly identified as 282 E. SR 44 to Commercial (C).

Mr. Rees asked questions from the Board. Mr. Adams suggested an earlier group had determined this area should be rezoned after the levy was created. There no other comments. Mr. Rees asked if the audience had any questions. There was none. Motion was made by Mr. Slaton to forward a favorable recommendation to the County Commissioners. Seconded by Mr. Adams. All in favor.

3. **APC 2020-7** Glen and Ruby Hooten are requesting a Property Rezone at roughly 312 E. 3<sup>rd</sup> Street in Rushville (parcel # 70-11-05-128-003.000-010). Glen Hooten was in attendance via teleconference as representative.

Gregg gave **Findings of Fact** as follows: The Hooten’s are requesting the APC to assign a Residential (R) zoning classification to a 7.63 acre parcel of property located at 312 E. 3<sup>rd</sup> Street. This parcel only has the designation of Floodplain (FP), but for construction purposes it is protected by the levy. The Department of Natural Resources does not limit construction in this area. Other areas in the County already have underlying zoning designations. Several parcels in the area are also lacking underlying zoning. A designation of floodplain does not allow for construction of any type. The Hooten’s would like to designate this area as Residential as it allows dwellings as a permitted use. This would eliminate the need for Special Exception if the existing dwelling is destroyed. This property will have flood plain

zoning to the South and City Commercial to the North. Residential zoning is also 80 feet to the Southwest.

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 on a State Road corridor.
2. Current Conditions - The parcel in question is currently a single family dwelling.
3. Desirable Use – The surrounding zoning is residential, commercial, and agricultural. This would be a desirable extension to the city. The only drawback to rezoning this parcel is the shape of the parcel. It extends to the Flatrock river and abuts the rail line entering the city but the widest portion that abuts the rail is only 137 feet wide. Probably not wide enough to construct a manufacturing facility.
4. Conservation of Property Values – Property values would likely not be affected since the zoning in the area is compatible with closest zoning. Much of which is an agricultural use.
5. Responsible Development and Growth – Current Residential use in this area provides a buffer between agricultural and commercial.

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

**Planning Staff Recommendation:** Planning staff recommends zoning the parcel at (parcel # 70-11-05-128-003.000-010) 312 E. 3rd to Residential (R).

Mr. Rees asked if there were any more questions from the Board. There were none. Mr. Rees asked the audience if they had any questions. There were none. Mr. Rees asked if there were further questions from the Board. Mr. Adams made the motion to send a favorable recommendation to the County Commissioners. Seconded by Mr. Shanahan. Mr. Rees asked for any more discussion. All in favor. Motion carried.

4. **APC 2020-9** Wilson and Mary Brooks and agent Andy Scholle are requesting a subdivision located at 5527 S 650 West in Orange Township. Agent Andy Scholle was in attendance.

Gregg read Planning Staff findings of fact:

The original parcel of land is 25 acres. The proposed subdivision from the original parcel would be 2 acres. This leaves a remaining parent parcel size of 23 acres . The land is being subdivided to allow the Brooks to separate production ground from the dwelling.

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 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 2-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.

Additionally, the dwelling is only 17 feet from the County Right of Way and will require a variance to 7.10.2(d1) granted by the BZA. The standard requires 100 feet from the County Right of Way.

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.

**Planning Staff 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 and d1) to allow a lot size of 2 and 23 acres, and front yard setback of 17 feet at 5527 S 650 West. Mr. Rees asked if there were any more questions from the Board. There were none. Mr. Rees asked the audience if they had any questions. There were none. Mr. Rees asked if there were further questions from the Board. None. Mr. Slaton motioned to approve contingent upon variances. Mr. Monka seconded the motion. All in favor. Motion carried.

5. **APC 2020-10 4** Daughters Dirt LLC and agents Katrina and Kyle Meal are requesting a subdivision located at roughly 8900 W 900 South in Orange Township. Agent Katrina Meal was in attendance.

Gregg read Planning Staff findings of fact:

The original parcel of land is 45.938 acres. The proposed subdivision from the original parcel would be 5.021 acres. This leaves a remaining parent parcel size of 40.917 acres. The land is being subdivided to allow the 4 Daughters Dirt LLC 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 a. Minimum Lot size is forty (40) acres.**

The proposed 5.021-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 40.917 acres will remain compliant. Further, the Meals only scored 21 on the Housing Scoring System, requiring Special Exception approval.

While development standard 7.10.2(b) requires 250 feet of road frontage, 7.10.2(f4) allows a 50-foot strip of platted land to connect to the public right of way thus eliminating the need for 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.

**Planning Staff 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 5.021 acres at 8900 W 900 South.

Mr. Rees asked if there were any more questions from the Board. There were none. Mr. Rees asked the audience if they had any questions. There were none. Mr. Rees asked if there were further questions from the Board. None. Mr. Slaton motioned to approve contingent upon variances. Mr. Adams seconded the motion. All in favor. Motion carried.

**OLD BUSINESS:**

**REPORTS:**

Attorney: Mr. Wesling had nothing to add.

**Director:** Gregg stated his concern of using the available teleconference equipment. He suggested the APC use a mixture of Zoom conference, teleconference, and personal attendance.

**Adjournment:**

Mr. Slaton made the motion to adjourn the meeting. Seconded by Mr. Adams. All were in favor. Meeting adjourned at 6:45 P.M.

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Marvin Rees  
**President**

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Gregg Duke  
Executive Director