

APC MINUTES

APRIL 19, 2023

Members present: Tom Kerns, Jim Hufford, Coy Applegate, John Reece, Terry Alfrey, Steve Hernly, Gary Friend, Abby Journey, Adrian Moulton, Bob Lahey

Members absent: Amy Alka, Will Greer and Don Calhoun.

Legal Representation: Jason Welch

Staff Present: Debra Johnting, Area Planning Director, Recording Secretary, Rhonda Gard, Area Plan Assistant

Others present: Brent Haworth, Cindy Haworth, Carol Miles, Jim Miles, Ed Thornburg, Maira Vasquez, Mark Osterholt, Justin Jordan, Rachel Jordan, Eric Ludwig,

V. President Applegate : It's April 19, 2023, 7 pm let's call to order the Area Planning Commission hearing for tonight. Ladies and gentlemen, did you have a chance to go over last months minutes? Is there any questions or concerns?

J. Hufford: I'll make a motion that we accept the minutes as presented.

V. President Applegate: Do I have a second?

G. Friend: I'll second the motion.

V. President Applegate: It's been moved and seconded that we accept the minutes from the March 22nd meeting, all in favor say aye, all opposed the same, motion passes. On the agenda tonight, first off we have APC2023-12-Z, Brian Pratt and Ramona Pearson.

D. Johnting: That has been withdrawn.

V. President Applegate: Oh, okay, I guess it's not our first one. We'll go ahead to APC2023-13-Z Justin Jordan. Would you like to come up here and state your names please?

J. Jordan: My name is Justin Jordan, my wife and I own a property on Plum Street in Union City, Indiana. We bought it July of 2020. I have an excavating business that I park my equipment there. When I bought the barn, and there was just a barn on a .8 of an acre lot. When I bought it off the gentleman he had farm equipment in it and I really never thought about it. I told him what I was going to use it for, he said he didn't think it would be a problem. So, three years later there's a zoning issue. So, I am requesting to get the property rezoned from R-1 to an M-2 with the condition that it reverts back to an R-1 if my wife and I sell it. I will use it just to park my equipment on. There's a couple of pieces of equipment there.

V. President Applegate: Anybody on the board have any questions?

J. Hufford: Yes, you say you're going to M-2 and that's manufacturing, everything around you is all Residential. Are you going to be doing manufacturing there?

J. Jordan: No, but that's heavy equipment storage falls under.

J. Hufford: Okay.

J. Jordan: I live two and a half blocks away from where the property is at. It's just parking and storage basically.

G. Friend: Is your stuff already there?

J. Jordan: Yes, it's been there for three years.

J. Hufford: Are you storing things outside or inside?

J. Jordan: There's a tractor and dump truck that sits outside most of the time, but I'm working on building a lean-to when all this happened. And I had to stop working on the lean-to so the stuff is put out of the way.

V. President Applegate: Anybody in the audience have questions or concerns?

J. Hufford: Can we put a provision on it that if he ever sells the property that it goes back to R-1?

J. Welch: It's already in there, that's what they are requesting.

J. Hufford: Okay.

T. Kerns: I own the adjacent property to him, and he does maintain the property well.

B. Lahey: Yes, he does take very good care of the lot.

V. President Applegate: If there's nothing further I would entertain a motion...

D. Johnting: You need to see if there is anyone in the audience who would like to speak.

V. Chairman Applegate: Oh, okay, I guess you can sit down. Sorry, this is my first night. Is there anyone in the audience that is either in opposition or for it?

D. Johnting: I did not have any calls on it.

V. President Applegate: Okay, so now I can entertain a motion for a favorable recommendation.

G. Friend: I make a motion for a Favorable Recommendation with the provision that it reverts back to the original zoning if it is sold.

J. Hufford: I'll second the motion.

V. President Applegate: We have a motion and a second, roll call vote?

D. Johnting: Adrian Moulton, yes, Steve Hernly, yes, John Reece, yes, Abby Journey, yes, Tom Kerns, yes, Gary Friend, Jim Hufford, yes, Bob Lahey, yes, Coy Applegate, yes, Terry Alfrey, yes, and Amy Alka, Will Greer and Don Calhoun are absent. Favorable recommendation with the conditions. You will go to the Union City meeting. I have that, that is the second and fourth Monday, So Jim, will they meet the 24th of April?

J. Hufford: Yes.

D. Johnting: So, I will see if I can get you on the docket for the 24th and the meeting is 6:00 pm.

V. President Applegate: Next on the agenda is APC2023-14-Z, Mark, Marie and Joseph Osterholt. Would you folks like to come up and present your case?

M. Osterholt: My name is Mark Osterholt, and I guess my ground was registered as Residential and we use it for agriculture, and there hasn't been a house on it for 50 years so I don't know how this happened.

D. Johnting: I can't explain it, it's on the GIS map and at this point you can't just change it, I haven't seen that in eight years. It's out in the country about as far as you can get in the county and we were shocked when we looked it up and it was R-1. I apologize for however that happened.

M. Osterholt: When we bought it, it didn't even state it or whatever. All the property around it is agriculture.

J. Hufford: It's almost in Jay County.

D. Johnting: It is, in fact I sent notices to folks in Jay county.

M. Osterholt: Yes, it's up near the border.

V. President Applegate: Any questions from the board? Anybody in the audience yay or nay? I'll now entertain a motion.

Jim Hufford: So moved.

Unknown speaker: Second.

V. President Applegate: I have the motion and second. We need a roll call vote?

D. Johnting: Steve Hernly, yes, John Reece, yes, Abby Journey, yes, Tom Kerns, yes, Gary Friend, yes, Jim Hufford, yes, Bob Lahey, yes, Coy Applegate, yes, Terry Alfrey, yes, Adrian Moulton, yes, and Amy Alka, Will Greer and Don Calhoun are absent. Favorable recommendation.

M. Osterholt: Thank you.

V. President Applegate: And now we will hear APC2023-15-Z Rick & Maira Vasquez

M. Vasquez: My name is Maira Vasquez. And we moved to Winchester, Indiana five years ago and we built businesses and I live at 927 East Short Street. My mother-in-law recently got sick so I want to move a trailer in on our land at 927 East Short Street. I think I have enough space so I want to go from R-1 to R-2, if that's possible. I did buy this trailer from Paul Faddis Real Estate, and it's a 1998. It's in nice condition. And Short Street already has several trailers already there. It's just for my mother-in-law to live in it's not for anyone else.

V. President Applegate: Any questions or concerns?

J. Hufford: Question for attorney, going to R-2, by being a separate residence but on the same property does it have to...

J Welch: That's why it has to be an R-2

D. Johnting: An R-1 property needs to be 10,000 square feet in the city, and she has 80,000 square feet.

J. Hufford: Okay, so she has plenty of room for this.

V. President Applegate: Any other concerns from the board? Audience questions or concerns?

B. Haworth: I am Brent Haworth, I'm the manager of the Haworth Three LLC. And one of the members is here with me too, Carol Miles, she is a member of the Haworth Three LLC. And then the third member of the Haworth Three is not present today. The Haworth Three LLC is the property that is just east of the 927 property adjacent to it. There is a narrow strip and then it runs on back to the field so we are just directly east of 927 and we would like to have the following included as a restriction due to the change of zoning from R-1 to R-2. I don't have enough copies for everyone but as I read the restriction I'm going to talk about it, so I thought it would help to have these in front of you. The restriction I'm talking about is, the second family residence at 927 Short Street, Winchester, Indiana will be located to the north of the current family residence. Only one person, and I don't have her name, but it's your mother-in-law? I don't have the name but that person's name would be inserted there, will occupy the second family residence. When that person no longer lives in that second family residence, which I understand is a trailer, will be removed from the property in the property at 927 East Short Street, Winchester, Indiana would revert back from R-2 to R-1. If the restriction is noted above or if there is similar wording with the zoning change from R-1 to R-2 we would not object to that zoning change from R-1 to R-2. If that restriction noted above, or similar wording is not included in the zoning change from R-1 to R-2 we would ask for a explanation as to why the restriction cannot be

included, and we would probably object to the zoning change if restrictions are not included in that zoning change from R-1 to R-2. We believe this will allow the participants in the area and the residents to remain as a single family residence and still allow the petitioner to care for your mother-in-law. Any questions?

G. Friend: Where's your property at? In relation to this?

B. Haworth: It adjoins the property directly to the east. Well, there was a house there about ten or twelve years ago that's been torn down. It's a vacant lot now however there is a four-car garage probably back about 100 feet towards the left side of the property. And it goes on there's a narrow strip that goes on back to the field. Probably back 100 yards to the field that is about a 16 acre field.

V. President Applegate: So that garage have something to do with the field or do you just leave it empty or ?

B. Haworth: We use it for some storage.

G. Friend: I think if we were taking it R-2 and then requiring her family to pull it out, that would be an undue burden on the family.

B. Haworth: I'm sorry I couldn't understand...

G. Friend: I said I believe that if we were to do this, and then something happened that required the family to pull it out of there right then and there, it could be pretty hard to do especially when its their property and they may get other family members they want to put in there. I mean to say you can let your mother-in-law live there, but then you have to yank it out is quite burden to put on them.

B. Haworth: Well our concern is, as we do have adjacent properties and there's, I don't know it's kind of a green space between the west side of our property and the east side of their property that adjoins. So, if they move and it remains an R-2, who knows what would happen. Somebody could put a trailer in that place and at some point we might want to sell that property and someone might want to put a house there. So, we're concerned not only, we want to accommodate them to care for their mother-in-law but we also want to maintain the integrity of the neighborhood. We might want to sell that property sometime and put a house there. If there's a house trailer there I don't think it would be advantageous to sell it.

J. Hufford: They can also come back to keep that trailer that'd not be a problem.

J. Welch: I would not recommend that strict of a condition on that with somebody's name on the trailer, we just did one where it could revert back to R-1 upon the sale of the property and that would be a reasonable restriction but putting someone's name on the property I think is virtually impossible to enforce.

D. Johnting: And I would know some things on the property but if it's just strictly sold how would we know?

J. Welch: There could be a transfer I suppose.

J. Hufford: It could be just like the other one we did?

B. Haworth: It's my understanding that the trailer has to be removed for it to revert back to R-1. If the trailer stays there then you got two residences and that remains as an R-1. We're not trying to put a burden on the family that wants to do this, but we do want to maintain the integrity of the neighborhood too. So, this is not an open-ended situation. Yes, as long as the mother-in-law needs to be there where they can care for her or whatever the case might be we have no problem with that at all but it's an R-1 neighborhood, its not an R-2 neighborhood.

J. Welch: The other thing to consider also is that the lot is big enough for two lots and she could come before the BZA to put one on each one, its big enough to do that. So, I think either way she can do what she wants to do. This seems to be the most efficient way to get that done.

G. Friend: I'm not in favor of that part of the restriction, I think we make a recommendation to Winchester to put one on to the sale of the property. What would still control it from them splitting it, it's 80,000 square feet, right? It takes 10,000 in Winchester, the neighborhood is not without manufactured housing anyway. And a 1998, in fact the 1990's manufactured housing is not the stuff from the 1960's, it's really not. So, my personal opinion is we can put a restriction on but it cannot be that strict in my opinion.

B. Haworth: And I said similar wording so if there is a suggestion on different wording but will still maintain the intent of what we are trying to do, I would have no objection on that.

G. Friend: I would take the advice of from our counsel on how to word it properly.

B. Haworth: I thought that there would have to be some type of different wording. But the intent of the wording needs to be there. And it's there for use by the mother-in-law that needs help, but after that it is gone and it reverts back, that is the intent.

J. Welch: The other thing you have to remember here to is that if you do put a restriction on this, it really doesn't make a difference because all they have to do is when the time comes they just split the property in two and it remains R-1. So, honestly a restriction is almost pointless to put on the zoning to me.

G. Friend: Any restriction whatsoever.

J. Welch: Really any restriction whatsoever, because it can be split and done anyway through the BZA.

B. Haworth: So that would remain as an R-2 forever?

G. Friend: Why does the R-2 bother you so much on such a large lot? It could be split up into eight sub-parcels right now. And it would all be R-1. But, that's never going to happen, but why does that bother you so much?

B. Haworth: Well, our concern is--we don't have a current concern, our concern is five years, ten years from now they sell it and it's still an R-1 there could be a trailer put right between our property and their property and that would tend to in my opinion, to decrease the value of our property if we would sell it and someone would want to put a home there. So, we're looking toward the future, as well as maintaining the integrity of the neighborhood.

G. Friend: I don't think you would lose that by letting this project go as it's presented. I don't think you would lose that integrity by what's being presented tonight. And of course, you can make the same case to the city of Winchester as well. They'll have the overall final say. That's my opinion as one on the board that we should not be restrictive on this when there is plenty of room for the project.

B. Haworth: Does that mean if it's changed to R-2 it would remain that way forever? Unless there was another hearing or something?

G. Friend: Yes.

B. Haworth: See, that's an R-1 neighborhood, it's not an R-2 neighborhood. I don't think it was intended to be a permanent R-2 forever.

G. Friend: I guess that's a valid point but it doesn't change my mind because it can be immediately split into two R-1's, and then it could be split again into eight R-1's so putting any restrictions at all is not making the mobile home go away if something happens to her mother-in-law.

B. Haworth: But that's not what's happening now, they are asking for just a trailer to put there, and all I'm asking is, sure put it there, use it for your mother-in-law, and when you're done remove it and go back to R-1.

G. Friend: And do what with it?

B. Haworth: That would be up to them.

G. Friend: Right, that's too restrictive. I don't have any more to say, I'm done.

V. President Applegate: Thank you Do you have a question?

M. Vasquez: There's a trailer right next to 927, he has a garage right next to me, there's another trailer way older right next to me. I'm in the middle. I'm in the middle with his garage, there's no house, He just uses it for farming and storage which we keep an eye on, because you know the neighborhood is not the best. So, there is a trailer right next to the other side of myself. I'm bringing my mother-in-law from Texas. When we moved over here we opened up an ice cream shop in Union City downtown, we

bought businesses so. I just can't, Texas is over eighteen hours away, so we are just bringing her here to look after her.

B. Haworth: So, one more comment whatever your decision is, is your decision but if there is no restriction or similar type wording, then the Haworth Three would oppose the zoning change.

V. President Applegate: Any other questions?

G. Friend: Not from us.

V. President Applegate: Any other concerns from the audience? I'd recommend a motion.

G. Friend: I make the motion that we make a recommendation to Winchester as a Favorable Recommendation as presented to us without restrictions.

J. Hufford: Second.

V. President Applegate: I've got a motion and second. Roll call vote, please.

D. Johnting: John Reece, yes, Abby Journay, yes, Tom Kerns, yes, Gary Friend, yes, Jim Hufford, yes, Bob Lahey, yes, Coy Applegate, yes, Terry Alfrey, yes, Adrian Moulton, yes, Steve Hernly, yes. And Amy Alka, Will Greer and Don Calhoun are absent. Favorable recommendation. I've got to check May 1st or May 15th. At this time this will be discussed and they have the final vote at the Winchester City Council on May 1st at 6 pm. So, anyone with any interest please feel free to check with me or the Winchester City Council prior to the 1st of May to make sure that it's on that night. I was thinking they had said they always have one the third week but not always the first or is it the other way around?

T. Alfrey: I have not heard that they are not going to have one.

D. Johnting: Okay, I've had that happen before, so I just wanted to make sure.

T. Alfrey: If I hear anything I'll let you know

D. Johnting: Okay, I'll usually check the Wednesday or Thursday before the next week to make sure I know that there's a hearing or not in case anyone checks with me. And for Osterholt--you guys are still here, the Commissioners meeting is where you'll go, May the 1st at 9 am in the Court House uptown for a final, it won't be the final decision, they may have to read it a couple of times but that's where you'll go to get your final vote.

M. Osterholt: What's that location?

D. Johnting: The Court House, the third floor Commissioner's room, north end just off the elevator.

V. President Applegate: Do we have any other old or new business for discussion?

D. Johnting: Not sure about a meeting next month, I can't remember. Possibly.

V. President Applegate: Well, if there is nothing else I would accept a motion to adjourn.

J. Hufford: So made.

V. President Applegate: Meeting adjourned.

President Don Calhoun

Vice President Coy Applegate

Area Plan Director/Recording Secretary, Debra Johnting