

Minutes of the June 24, 2004  
Regular Meeting of the  
Marshall County Plan Commission  
112 West Jefferson Street, #203  
Plymouth, Indiana 46563

## MINUTES

President David Dinius called the meeting to order at 7:30 p.m. on Thursday, June 24, 2004, in Room #203 of the Marshall County Building. Present were: Commission Members Clifford Allen, David Dinius, Larry Fisher, Randy Gingle, Fred Lintner, Ronnie McCartney, Wayne Neidlinger, and Harold VanVactor, Max Watkins, Plan Director Troy Kiefer, Secretary, Leesa Kolter, Planning Assistant Dave Rockaway and interested parties.

The first item of business was the review of the minutes from the May 27, 2004 meeting. Mr. Lintner moved and Mr. Gingle seconded a motion to pass the minutes with corrections. The motion passed by acclamation.

The second item of business was case 04-PC-11, Eugene Hutchinson & Richard Morris, A request for a Zoning Map Amendment to change the Zoning Classification of a property located at 1010 Michigan Road, Lapaz in Section MRL 4 of North Township from S-1, Suburban Residential to B-2, Business Interchange. Mr. Hutchinson and Mr. Morris were present to represent the request. Mr. Kiefer gave the details of the request and presented the findings of fact. He stated that last year the same request came before the Plan Commission by a different individual. He stated that the property is still owned by Swifty. He stated that the request is to put a used car lot on the property. Mr. Kiefer stated that if the zoning were changed to B-2, any use permitted in a B-2 district would be permitted in the future. He stated that the property has historically been used for Commercial uses, but when the Zoning Ordinance came into effect, it was zoned S-1. He stated that when the gas station went out of business it left a property that was very small. He stated that the grandfathering has since expired and renders the property unavailable for commercial uses and too small to meet the setbacks for residential uses.

Mr. Hutchinson stated that the property will never be used for residential. He stated that if they purchase the building they will clean up the property. He

stated that the traffic is no more on this side of Michigan as it is on the other side where there is an antiques store. Mr. Morris stated that there is an island that they would have to stay behind and will not limit the sight line of motor vehicles.

Mr. Allen asked if they are only going to sell cars. Mr. Hutchinson and Mr. Morris stated that was correct. Mr. Morris stated that it is not large enough for a big car lot. Mr. Hutchinson stated that they would like to place 10 to 15 cars on the lot. He stated that down the road they might decide to sell it. He stated that it would be a nice size for an office building, i.e. insurance, attorney etc.

Mr. Fisher moved and Mr. Allen seconded a motion to open the public hearing. The motion passed by acclamation.

- Jane Harris, Lapaz Town Clerk/Treasure, spoke regarding the request. She stated that she spoke to the Town Marshall and they concluded that it is a dangerous intersection. She stated that although there is now a light, she stated that she still felt that it is dangerous.
- Rex Hummel, 995 Michigan Road, spoke regarding the request. He stated that his aunt was killed at the intersection. He stated that if approved, he would feel more comfortable if access was only granted from 1<sup>st</sup> Road. He stated the cars could block the view if they were not set back far enough. He stated that if those safety precautions were met, he could see how it could be approved. He stated that he does want to see the property cleaned up.
- Cletus Berger, 999 Michigan Road, spoke regarding the request. He stated that he has been rear ended twice, trying to pull into his driveway. He stated that the more people that are there the more dangerous it is.

There was no one else to speak either for or against the request. Mr. Neidlinger moved and Mr. Watkins seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Dinius asked Ms. Harris, speaking for the Town of Lapaz, what would she like to see done with the property? Ms. Harris stated that she would like to see it cleaned up, but she wanted to retain safety. She stated that she would agree with Mr. Hummel that if the traffic were routed to 1<sup>st</sup> Road it would be safer.

Mr. Hutchinson stated that he understands the importance of staying behind the island. He stated that he could live with routing the traffic through 1<sup>st</sup> Road as opposed to US 31. Mr. Dinius asked if Swifty is the current owner. Mr. Hutchinson stated that is correct.

Mr. McCartney stated that he made one last drive through the area before the meeting. He stated that although there is a yellow light there, he takes issue with the state because the light is not high enough. He stated that with traffic in front of you, you might not see the caution light. He stated that he has concerns with adding additional congestion in the area. He stated like everyone else, he wants to see the property cleaned up.

Mr. Hutchinson asked if Mr. McCartney felt that a used car lot would make the area a lot less safe. Mr. McCartney stated that currently the property is vacant, and as people drive by they are not looking at it. He stated that currently the intersection is not safe and any additional activity there will add to already unsafe conditions.

Mr. Fisher stated that his concern is that when you rezone an area, it opens Pandora's box. He stated that once an area has been rezoned, it opens it up to all of the uses that are listed in the Zoning Ordinance. He stated that there several items on the list that are not compatible with the site. He stated that after approval the County has lost control. Mr. Hutchinson stated that he understands, but the lot is so small that the options would be very few. Mr. Fisher stated that there are some things listed in the Zoning Ordinance that are high traffic generators. He stated that the Board needs to think beyond what Mr. Hutchinson and Mr. Morris are requesting to protect the County from future problems. Mr. Fisher stated that a used car lot might be ok, but the next business may not and they do not want to loose control. Mr. Hutchinson stated that it is too small for a restaurant. Mr. Fisher stated that was true, but within the uses permitted in the Zoning Ordinance, it would permitted and someone could try that in the future. Mr. Fisher stated that once the property is rezoned the County looses control to make decisions to protect the community.

Mr. Neidlinger asked if Mr. Hutchinson and Mr. Morris could request to change zoning if they do not own the property? Mr. Morris stated that they have made an offer on the property and will be the owners. Mr. Kiefer stated that he accepted the application with the notion that Mr. Hutchinson and Mr. Morris were acting as agents for Swifty.

Mr. Allen asked how much traffic they anticipate generating? Mr. Hutchinson stated that if they saw 10 people they would be happy. Mr. Allen stated that he felt that it was made safer by the addition of the light. He stated that no one is going to change the area, it is what it is. He stated that if the property is accessed by 1<sup>st</sup> Road he would be in favor of the request. He stated that there currently is good access from 1<sup>st</sup> Road. Mr. Fisher stated that conditions can not be placed on rezoning.

Mr. McCartney stated that he would like to suggest Mr. Hutchinson and Mr. Morris request a Variance of Use to allow conditions to be placed on the property. Mr. Hutchinson stated that he would not have a problem with that. Mr. McCartney stated that he would like to see everything work out for the applicants, but not at the expense of the community. Mr. Fisher agreed and felt that control could be granted by a Variance of Use.

Mr. Hutchinson asked if he would be limited to only a car lot? Mr. Fisher stated that any approval would be specific. Mr. Neidlinger stated that he would have to bring any future changes before the board. Mr. Hutchinson stated that he would like to be able have flexibility in case he would like to place an office building on the property.

Mr. Hummel asked if through a Variance of Use access could be limited to 1<sup>st</sup> Road? Mr. Dinius stated that conditions could be placed during that process.

Discussion was held on the procedure for action on the request. Mr. Kiefer stated that Mr. Hutchinson could withdraw his request for rezoning. Mr. Hutchinson stated that he would like to have the request tabled in case he did not receive the desired effect by the BZA, they would still have an avenue available to them.

Mr. Hutchinson stated that he would like to apply for a Variance of Use.

Mr. Fisher moved and Mr. Allen seconded a motion to table the request until the next meeting. The motion passed by a unanimous vote of approval.

The third item of business, case 03-PC-32, Plan Commission, Proposed Amendments to the Marshall County Zoning Ordinance Article 3 et seq. regarding Subdivision in A-1, Agricultural Districts and the creation of a Rural Residential District.

Mr. Kiefer reviewed the history of the request. Discussion was held regarding whether it was necessary to forward the request to the County Commissioner's or whether to let the matter die, as the Subcommittee members were working on similar matters during the process of updating the Marshall County Zoning Ordinance. It was decided that the board would like Mr. Kiefer to present the request to the County Commissioner's to prevent a lapse of coverage for the County.

Mr. McCartney moved and Mr. Lintner seconded a motion to forward the request to the County Commissioner's with a recommendation of approval. The motion passed by a unanimous vote of approval.

The last item was Other Business. Mr. Kiefer presented the 2005 Budget for the Plan Commission. Mr. Kiefer stated that in the 2005 Budget the Building Inspector has requested the replacement of his 2000 Explorer with approximately 120,000 miles. He stated that he would like to request the purchase of the vehicle for the Plan Commission. He stated that he also has requested a line item for vehicle maintenance. Mr. Kiefer stated that it is his opinion that the department could use the vehicle. Mr. Kiefer stated that he has been using his vehicle for the past seven years. He stated that he will have a statement ready of the mileage claims through the years for the County Council. He stated that the Plan Commission has not had a vehicle in the past, but many communities do. Mr. Neidlinger asked who would pay the insurance premiums. Mr. Allen stated that the Commissioner's would. Mr. Kiefer stated that this would only be a possibility if the Building Department were funded a new vehicle for 2005.

Mr. Kiefer stated for the fourth year in a row, he is requesting money for a new projector in Computer Hardware. He stated that the office currently shares with the Extension Office and the projector is in high demand. Mr. Fisher asked if this could be one that could float between other offices. Mr. Kiefer stated that would be fine.

Mr. McCartney asked if the vehicle did not work out, how would the budget change? Mr. Kiefer stated that mileage would be added back in.

Mr. McCartney asked how many miles the department would use? Mr. Kiefer stated between 5,000 to 10,000 miles yearly. Mr. Neidlinger asked if the vehicle would be kept in close proximity. Mr. Kiefer stated that he had hoped that it would be a

take home vehicle, but it would be up to the commissioner's. He stated that it would be a wonderful thing for the department either way.

Mr. Glinge moved and Mr. Watkins seconded a motion to forward the budget to the County Council. The motion passed by acclamation and Mr. Lintner abstaining.

Mr. Dinius stated that he mentioned to Mr. Yoder the Extension agent has not typically attended the July meeting because of fair week. He stated that as this could be Mr. Glinge's last meeting he wanted to extend his appreciation for his presence and participation.

President Dinius asked for other business. There being none, The meeting was adjourned.

Respectfully  
submitted,

Harold  
VanVactor  
Secretary