

MINUTES

**POSEY COUNTY
AREA PLAN COMMISSION
REGULAR MEETING**

**THE HOVEY HOUSE
330 WALNUT STREET
MT. VERNON, INDIANA 47620**

**APRIL 8, 2021
6:00 P.M.**

MEMBERS PRESENT: Mr. Mark Seib – President, Mr. Hans Schmitz – Vice President, Mr. Mike Baehl, Mr. Kevin Brown, Mr. Andy Hoehn, Mr. Randy Owens, Mr. Randy Thornburg, Mr. Dave Pearce, Dr. Keith Spurgeon (via Zoom), Mr. Trent Van Haaften – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant.

MEMBERS ABSENT: None

APPROVAL OF MINUTES: Hans Schmitz made a motion in the affirmative to approve the minutes of the last regular meeting as emailed. Motion seconded by Kevin Brown (9-0) **Yes. Motion carried.**

Hans Schmitz made a motion in the affirmative to approve the minutes from the March 18, 2021 special meeting as emailed. Motion seconded by Kevin Brown (9-0) **Yes. Motion carried.**

REZONING:

DOCKET NO: 21-03-RE-APC
APPLICANT: Rick Mileham
OWNER: Old Orchard LLC
PREMISES: Lot 318 and Lot 319 in Section J of the Charles E. Lawrence Subdivision and Outlot 203 in Section G of the Charles E. Lawrence Subdivision to the City of Mt. Vernon, Indiana. Southeast corner of the Northeast Quarter of the Northwest Quarter of Section 5, Township 7 South, Range 13 West lying in Black Township, Posey County, Indiana. More commonly known as Roosevelt Drive & Main Street, Mt. Vernon, Indiana, containing 0.88 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Petition to rezone property from RS (Residential Single-Family) Zoning District to O (Residential Office) Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

RICK MILEHAM: 4354 Ford Road, Mt. Vernon, Indiana. I am here on behalf of Old Orchard LLC, which I am a member. We also own the property just south of this. It is zoned Office, which is leased. We own the three parcels, which are in question. The one beside is already zoned O, for Office. When Charlie Lawrence did that subdivision that is where the line was before he added Section J, I believe it was J. So when they did that, they did those all as residential lots and didn't break them out at that time. In my opinion, they should have been Office all along. It is along the highway and it's a large parcel. You couldn't build a home on that large parcel along the highway. The other two are facing the church right against the highway. We are proposing to have those rezone and selling that property. We have had two or three different people look at it. One was for a recreational center. One was for storage units. We have a current prospect that is wanting to put an apartment complex on it. So we would like to get it rezone to match the other parcels along that corridor.

ANDY HOEHN: So you are taking three lots into one?

RICK MILEHAM: They are just rezoning those three lots.

RANDY OWENS: Will the apartments be more of an upscale type apartment or Section 8?

RICK MILEHAM: This builder is looking to put market rate apartments, not Section 8. He is also looking at buying the remainder lots in Lawrence Subdivision. This project would be awesome for Posey County.

MARK SEIB: You may have a seat. We will now open the public portion. Is there anyone here wishing to speak for or against this application?

LISA SALTZMAN: 105 Washington. I wanted to let you all know that when we chose our home, we realized it was represented as commercial property and we knew there could be an office there. We would not have bought there if we thought there was a chance of an apartment being built there. It was always our understanding it was a commercial lot. He stated that those lots were not fit for homes. Apartments are homes. When I look out at the area and imagine the sight of those apartments, I don't feel like it matches the surrounding area and it could even be an eyesore. Where will the trash be located, what will this look like? Right now, it is peaceful. We like to sit outside and children play down there. He says the apartments will be upscale, but he can't guarantee they will be upscale. We don't know what kind of people will live there. Those are our concerns.

LAURA VARNER: 104 Washington. I live across the street from the Saltzman's. I want to reiterate everything she just said. We are happy with the way it is now. We can't

imagine anything being there. We do understand that it is a possibility. The idea of multiple families living right next to us... I can't imagine any of you would want an apartment complex next to you. There are so many concerns like lighting, traffic and trash. That lot had been empty for so long. We never imagined anyone would ever build there because Mt. Vernon is dying. There are so many empty buildings in this town that could be used. I just never imagined that someone would want that lot in such an awkward place. It doesn't seem like it would fit in there. If it was single story, we could live with that. But if it's a multiple story complex, it would be devastating. I hope that you would consider what you would want to live next to. This empty lot is like a park to us.

MARSHA KING: 108 Roosevelt. We are the first house on Roosevelt. It is very hard for us when we pull out of the driveway because cars are zipping up and down Roosevelt constantly. Cars are also coming off of Main. I think that will be a problem for this new place. We are worried about the devaluation of our property. We worry if it will be flat, like one level, or will it be tall. Where will their parking lot be? If there is an apartment complex, I'm sure there will be a big dumpster. We don't want that near us. We are worried about the lighting. Which way will it face? How many units? Are there any ideas or plans for us to look at?

MARK SEIB: You will have to ask the Board and we will ask for that. That way he is at the microphone and it will be recorded. Is there anyone else wishing to speak for or against this Rezoning? We will now close the public portion. Mr. Mileham, would you please come up? I'm sure you don't have any idea or know what type of building they are interested in building, do you? Is there anything you can add?

RICK MILEHAM: It could be an office building. Right now, we want to rezone it because there is an office beside it. There is a vacant lot that is office and it needs to be office from there to the church. The apartment building across from IGA all the way to Harvestime is all commercial based businesses. So that is what needs to be there. We are trying to grow Mt. Vernon. I'm not sure I would want an apartment complex there either if I lived behind it. But, those lots were vacant and one was already zoned office. You knew that somebody could actually build an apartment complex on that lot. They wouldn't be able to build a 16 unit, but they could build a four unit very easily on that lot. I understand where they are coming from. It is a part of progress. Some of the time I don't agree with it. That is a commercial area right there. Before we even brought this up here... As a realtor I should have known this, I thought two of the four lots were already zoned as commercial. The one was not. The builder, which is Rheinbrecht Homes, is looking to buy the subdivision. This is going to be part of his decision on buying the subdivision and putting new homes in Mt. Vernon. When you look at property values, that is what I look at more than anything. You can't build a home for less than \$200,000. Some of the homes we are talking about now are valued in the \$110,000 - \$120,000 range in normal times. If you have 50 homes being built that are 200+, that will probably help your home value and not decrease your home value. The Board actually has a depiction of an estimated drawing of what he would do if he did the

apartment complex .It would be more back towards the buildings that are there. It sets where the parking would be more along Roosevelt. Also in these restrictions, are buffers along the property lines. There has to be so much parking. You can only put a certain size building on the property. All of that has been addressed. I do get the concerns from both sides of this table, but Posey County has been going backwards in residential. There is no guarantee he is going to do both.

MARK SEIB: It is now up to the Committee to discuss and take action as they see fit.

RANDY THORNBURG: I personally feel the building code would take care of the ladies in the audience concerns. I don't have a problem with it personally.

KEVIN BROWN: Does the ordinance say anything about planting any trees or shrubs?

MINDY BOURNE: There would be requirements. It would depend on the number of units they are proposing. It may have to go through a site plan application with the board as well. That is when the specifics of the lighting, parking and all of that would be addressed.

KEITH SPURGEON: If I understand correctly, tonight we are just approving the Rezoning. It could be an apartment complex, it could be office space. Whatever is put on it would be a separate review process. Tonight is the first step of rezoning it so it can be used for something else.

MINDY BOURNE: This is a recommending body. This will go on to the City Council after this meeting.

ANDY HOEHN: What is the standard setback in an O district and does that change with any kind of height?

MINDY BOURNE: The setbacks are based on what the use is going to be. A residential use is different from a nonresidential use.

ANDY HOEHN: If it's apartments, it will have height. It also requires a fence.

MINDY BOURNE: There are height requirements on this zoning district as well. It says here that no building or structure erected or altered to a height exceeding 2.5 stories. It is not to exceed 35'. When you look through the Residential Office classification, it has residential uses and requirements and then it goes on to the office uses and requirements.

ANDY HOEHN: So fencing would be a requirement regardless.

ATTORNEY TRENT VAN HAAFTEN: Fencing would be in the screening aspect.

Mindy Bourne stated there was one phone call on April 8 from Rusty Levins. He is in favor of this application. He said it would be good for the City of Mt. Vernon. Mrs. Bourne stated there were no letters or emails.

A motion was made in the affirmative by Randy Thornburg to recommend approving Rezoning #21-03-RE-APC. Motion was seconded by Andy Hoehn **Roll call vote (9-0) Yes. Motion carried.**

MARK SEIB: This will go on to the City Council on Wednesday, April 21 at 6:30 p.m. via Zoom only.

Andy Hoehn stated that they could receive the Zoom information from the Mayor's Office.

A motion was made in the affirmative by Dave Pearce to accept the Findings of Fact for Rezoning 21-03-RE-APC. Motion was seconded by Mike Baehl. **Roll call vote (9-0) Yes. Motion carried.**

SITE DEVELOPMENT PLAN:

APPLICANT: Tiffany Lehman-Neikirk Engineering LLC
OWNER: C&H Holdings LLC
PREMISES: Part of the East Half of the Southwest Quarter of Section 3, Township 7 South, Range 13 West, Black Township, Posey County, Indiana, containing 11.636 acres, more or less. More commonly known as 3401 SR 62 E., Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

APPLICANT/OWNER OF THE ABOVE DESCRIBED PROPERTY HAS REQUESTED:

Approval of Site Development Plans in a B-3 (Commercial High Intensity) Zoning District under The Zoning Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

MIKE NEIKIRK: 306 N. Market Street, Mount Carmel, Illinois. I am the engineer of record for the project and I am representing C&H Holdings. As you stated, we are seeking approval for Site Development Plans for a trucking facility. There will be office space, dispatch, trucking facilities and truck parking. I would be happy to answer any questions you may have.

KEVIN BROWN: How many trucks do you have coming out of this facility in a day?

MIKE NEIKIRK: They currently own 34 trucks. They will be coming and going in the morning and coming home in the evening. We have parking for a total of 83 in two phases.

KEVIN BROWN: Will most of the deliveries be going west or east?

MIKE NEIKIRK: I don't know.

KEVIN BROWN: The only reason I am asking is because of the intersection where they pull out. I don't know if they go west, if there is enough room for them to sit in the middle.

MIKE NEIKIRK: Actually, that is a good point. I believe that was one of the concerns Ms. Lehman discussed. It is my understanding that they will follow what Russell Excavating does. When going westbound, they will go down Lower Mt. Vernon to Lamont and then up to the signalized intersection. Then eastbound, they will have the option to go either way.

MINDY BOURNE: That was one of the concerns that was brought up at the Site Review meeting. I do have that information in the Findings of Fact. We asked Tiffany to reach out to the owners.

MIKE NEIKIRK: I believe there was some other information regarding lighting that Tiffany did not have as far as height of poles. The site lighting, I believe, are 24' poles.

MINDY BOURNE: She passed on some information to me today. Out of the Site Review meeting, there were some things that the Committee asked for some more information on. She was able to address all those items except the location of the alternate fuel storage. I believe Mike asked the question about that. She did not have that information. She stated it will be designed and permitted by others and in architectural drawings it is labeled as other. So I assume it will be installed after the construction is completed on the building. She sent a lighting plan, signage was addressed and then the status of the State permit submittal. She was unable to get a response, but I would assume it has not been submitted at this point and that it would be submitted once a date for the start of construction is set. At this point and time they are just trying to get some of the permitting taken care of. Once that has been done, then they will look at setting a start date.

MIKE NEIKIRK: That is true, this project was put on hold last year. We happen to be here first for Site Development. I believe architectural is lagging behind us. I'm assuming as well that they have not submitted for State Design Release. I assume that is what you're talking about, with the State?

MINDY BOURNE: Yes. That is always a question that this board has. It has been past practice that if it has not been submitted or has not been approved, or in the pending

stage, that this board makes it contingent... we can't issue our permit until that has been done. Obviously, you can't start construction until you have that done anyway. Rule 5 has been approved.

MIKE NEIKIRK: We've had discussions with INDOT. We have not filed the permit application yet. We've designed a storm water detention in accordance with our discussions with them. We will need a permit from them to release storm water onto their right a way.

MARK SEIB: So the fuel storage things the State's rules on how many gallons they have and everything else.

ANDY HOEHN: What was the sewer (not audible).

MIKE NEIKIRK: It will be an on sight septic system. We have done soil borings and we've don't the design, but we have not filed the application yet. And that is just because this is where we started after the project got released to move forward.

MARK SEIB: You said there were a total of 83 trucks?

MIKE NEIKIRK: We have parking spaces for 83 trucks. We currently own 34.

MARK SEIB: Any further questions? You may have a seat. We will not open this to the public. Is there anyone here wishing to speak for or against this application? With no one coming forward, we will close the public portion and open it to the Board for discussion and/or action.

Mark Seib confirmed with Mindy Bourne there were no phone calls, emails or letters.

A motion was made in the affirmative by Kevin Brown to approve the Site Development Plan. Motion was seconded by Randy Thornburg.

The motion was amended by Hans Schmitz to approve contingent upon State permitting and design release. Motion was seconded by Dave Pearce. **Roll call vote (9-0) Yes. Motion carried.**

A motion was made in the affirmative by Hans Schmitz to approve the Findings of Fact. Motion was seconded by Mike Baehl. **Roll call vote (9-0) Yes. Motion carried.**

REZONING:

DOCKET NO: 21-04-RE-APC

APPLICANT: William E. Gillenwater/Andrew Wilson

OWNER: William E. Gillenwater

PREMISES: Part of the Northwest Quarter of Section 4, Township 5 South, Range 13 West and part of the Northeast Quarter of Section 5, Township 5

South, Range 13 West, lying in Harmony Township, Posey County, Indiana. More commonly known as 1499 SR 66, New Harmony, Indiana. Containing 3.75 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Petition to rezone property from R-1 (Residential Single-Family) Zoning District to M-1 (Light Manufacturing) Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

WILLIAM E. GILLENWATER: 2900 Michael Court, Evansville, Indiana. I purchased that piece of property from the Conyers. At the time, they had gone out of business. They had done a lot of work in the oil field business, pipe, oil field tanks, welding, cutting, working on the trucks and so forth. I decided to buy it when it came available. I tore down one unsightly building and cleaned it up. I removed all the concrete and took all the pipe racks out along with the pillars that supported the tanks. I never looked at the zoning on it when I bought it. I really wasn't concerned with it, I just wanted to clean it up. I assumed it had to be something in the industrial setting for them to have operated there, but it was always Agricultural. It probably should have been M-1 the entire time. I decided it wasn't a big deal at that time because I lived right behind the place and I mainly wanted to clean it up. Since that period in time, I have sold my home that was adjacent to that property. The new homeowner is here this evening. I then decided to put that piece of property up for sale after I sold my home. Andrew has found a buyer for that piece of property and their requirement for it would be in the M-1 category. It was set into three separate lots and I have combined the three lots to meet the perimeters of an M-1 zoning requirements. The contingent sale is upon it being rezoned to M-1.

MARK SEIB: Any questions for Mr. Gillenwater from the Board? With none, you may have a seat. We will not open this up to the public. Is there anyone here wishing to speak for or against this application?

MICHAEL CLARK: 1351 Graystone Street. I am here speaking on behalf of Melinda Clark Trustee, my wife. We purchased the property from Mr. Gillenwater. Any project going in beside a residence, there is always that concern of property devaluation, but we know the company that is wanting to do business there. They take very good care of their facility and we support this project.

ALLEN RUSK: 1704 Mary Lane, Olney, Illinois. I am here representing Wabash Valley Service Company, with the headquarters in Grayville, Illinois. We are proposing to purchase the property from Mr. Gillenwater. We need the M-1 zoning in order to install a 30,000-gallon propane storage tank to operate a propane delivery business in Posey County, Indiana. We currently do some propane service in Posey County. We pull it from Illinois and bring it over here. We are picking up more business, so we are needing more storage. Long-term plans are to install a four-tank petroleum storage facility, liquid fuel storage and gasoline. We currently lease a facility in Poseyville. We would like to get our own facility built out of town. Therefore, that is our proposed usage of the property. Currently it would be propane storage and within a couple of years, having the liquid fuel storage facility there.

MARK SEIB: Anyone else wishing to speak for or against this Rezoning? With no one coming forward, we will close the public portion and open it up to Committee to discuss and take action as they see fit.

Mark Seib confirmed with Mindy Bourne there were no phone calls, emails or letters.

A motion was made in the affirmative by Andy Hoehn to recommend approving Rezoning Docket 21-04-RE-APC. Motion was seconded by Randy Thornburg. **Roll call vote (9-0). Yes. Motion passed.**

A motion was made in the affirmative by Kevin Brown to approve the Findings of Fact. Motion was seconded by Mike Baehl. **Roll call vote (9-0). Yes. Motion passed.**

MARK SEIB: This will go to the County Commissioners on Tuesday, April 20 at the Hovey House. Mindy Bourne will be present, but they do always ask the owner or representative to be present to answer any questions.

COMPLAINTS: 515 Locust Street, Mt. Vernon, IN

MINDY BOURNE: At the February meeting, we directed Trent to send the owner a letter in regards to this complaint.

ATTORNEY TRENT VAN HAAFTEN: There was a letter sent to the owner, Lorelei Barnes. A copy was also sent to the tenant. We have not received the green copy back showing that this certified mail was picked up.

MARK SEIB: Do they both live in Mt. Vernon?

ATTORNEY TRENT VAN HAAFTEN: Yes.

MARK SEIB: How long ago was the letter sent out?

ATTORNEY TRENT VAN HAAFTEN: At least three weeks ago.

MARK SEIB: Is this normally when we ask the deputy to deliver...

ATTORNEY TRENT VAN HAAFTEN: This service is done one of two ways, you either mail it to them and hope they pick it up or find somebody to do a personal delivery.

MARK SEIB: And that is what we have done in the past, we've had a deputy or police officer deliver the letter.

ATTORNEY TRENT VAN HAAFTEN: Have we had a drive-by recently?

MINDY BOURNE: I have somebody in my office that goes by and checks the complaints and makes sure posters are posted. He did take some pictures and you can see the new gravel they put down. There are structures parked on the gravel. (Mindy passed around the photos for the Committee to look at)

MARK SEIB: Andy, I know that you guys are talking about having rock added, did you go ahead and do anything?

ANDY HOEHN: No, it may be leaning more towards rock. The ordinance has not been changed. I don't think that is the issue here.

MINDY BOURNE: I thought there were more items initially parked on the gravel.

ANDY HOEHN: Initially, there were. I drove by there three days ago and there are quite a few items there. We are being ignored.

ATTORNEY TRENT VAN HAAFTEN: You have two options. You can try to drag them in here or you can file a citation and take them to court. It is difficult since they have never appeared before this body.

MINDY BOURNE: They told me they were going to attend. I will say the meeting they said they would attend was held at the 4-H Center. On February 8, she (the tenant) said she would be present. Lorelei said she works in the evening and couldn't attend.

MARK SEIB: Is it worth having the papers served, or what is the feeling?

ANDY HOEHN: The feeling on the Council right now is there is a body being put together and reviewing with Beth and legal to cleaning up these properties throughout the town. There is a decided move to take care of these issues. I can see by what is going on here now, that there is a renewed interest in Mt. Vernon and there are several properties that are highly visible that do not represent the good side of Mt. Vernon. Probably in the next year, maybe two, we are working in that direction and getting our ducks in a line to move on a lot of properties. So, Trent should go by and serve the papers.

MARK SEIB: I think we should try it one more time with serving the papers by the police officer to make sure they understand and get it.

RANDY THORNBURG: That sounds good to me.

ANDY HOEHN: I think the City would agree as well.

A motion was made in the affirmative by Dave Pearce to have the papers served by personal service. Motion was seconded by Hans Schmitz. **Roll call vote (9-0). Yes. Motion passed.**

COMPLAINTS: 315 Pearl Street, Mt. Vernon, IN

MINDY BOURNE: This is a new complaint. It was actually filed by two separate people. You see the letter I sent to the property owner as well as some current pictures of the site. Basically, what we have is... the tenant of this property placed pieces of fences together. A representative for the tenant called my office and explained that the tenant has dogs and there were issues with the dogs. The humane society ordered them to have a fence put up. Different people donated portions of fencing to create a fence for this backyard. I guess it was not too sturdy. I explained to the representative that used material can't be used for a fence. There are guidelines within the zoning ordinance for a fence and that you need to get a permit for a fence. She understood and said she would get back with me. She never did get back with me. The person that works part time in our office took these pictures recently. It appears that it looks like a dog kennel there now.

RANDY THORNBURG: It looks like new fence that was put up.

MINDY BOURNE: I don't think you have pictures of what was previously put up. It was white fencing. (Mindy passed out a picture of the previous fencing) They never contacted me and I don't know if the Board feels like this classifies as a fence or not.

MIKE BAEHL: Do they need a permit for a dog kennel?

MINDY BOURNE: No.

MIKE BAEHL: It looks like a dog kennel to me.

RANDY OWENS: It looks like something you could buy from Lowes. Does the ordinance say if you have a dog, you must have a fenced yard?

MINDY BOURNE: No. The person that was calling on their behalf said she would call me back but never did. They may think this is sufficient and has been taken care of.

RANDY THORNBURG: She probably looked and saw that a dog kennel did not require a permit.

MINDY BOURNE: I do believe there may be issues between the neighbors. The lady that filed the complaint did have some questions about property lines. She said over the years there has been some question about whose fence is whose.

MARK SEIB: It doesn't look like it is on the property line.

MINDY BOURNE: This is the new one.

RANDY THORNBURG: It looks like they made an effort.

MARK SEIB: So if the old fence that the complaint was filed on is gone and the new one is a kennel that doesn't require a permit...

MINDY BOURNE: And I do want to state that when I sent the letter to the property owner, I also send a letter to the individual that files the complaint and it tells when the complaint will be discussed with the Board.

ANDY HOEHN: It looks like there are issues with trash as well.

MINDY BOURNE: I did state to both individuals that filed the complaint that it was not a matter that I could address.

MARK SEIB: Any action from the Board?

DAVE PEARCE: Would it be appropriate to table this and see what happens for a month?

MARK SEIB: One thing we need to do is go by and see if the fence is gone or contact the person in the complaint.

MINDY BOURNE: I don't have a contact number for them. I was trying to reach the tenant.

A motion was made by Dave Pearce to table this complaint until the May 13 meeting. Motion was seconded by Randy Thornburg. **Roll call vote (9-0). Yes. Motion passed.**

DIRECTOR'S REPORT: I do have a thank you card for everyone to look at from an individual we recently dealt with.

APPROVAL OF PAYROLL & BILLS: A motion was made in the affirmative by Dave Pearce and seconded by Kevin Brown to approve payroll and bills. **Roll call vote (9-0). Motion carried.**

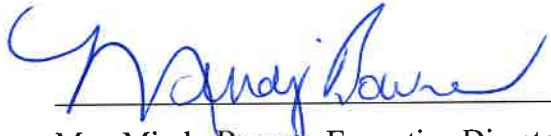
APPROVAL OF COLLECTIONS: A motion was made in the affirmative by Hans Schmitz and seconded by Mike Baehl to approve collections. **Roll call vote (9-0).**
Motion carried.

CITIZENS CONCERNS: None

ADJOURNMENT: Kevin Brown made a motion to adjourn the meeting at 7:24 p.m. Hans Schmitz seconded the motion.



Mr. Mark Seib – President



Mrs. Mindy Bourne, Executive Director