

## MINUTES

### POSEY COUNTY AREA PLAN COMMISSION REGULAR MEETING

THE HOVEY HOUSE  
330 WALNUT STREET  
MT. VERNON, IN 47620

NOVEMBER 10, 2022  
6:00 P.M.

Attorney Trent Van Haaften administered the Oath of Office for Aaron Neufelder and Joe Marvel to the Area Plan Commission.

**MEMBERS PRESENT:** Mr. Mark Seib – President, Dr. Keith Spurgeon – Vice President, Mr. Andy Hoehn, Mr. Joe Marvel, Mr. Aaron Neufelder, Mr. Randy Owens, Mr. Trent Van Haaften – Attorney, Mrs. Mindy Bourne – Executive Director, Mrs. Becky Wolfe – Administrative Assistant

**MEMBERS ABSENT:** Mr. Mike Baehl, Mr. Dave Pearce, Mr. Randy Thornburg

**APPROVAL OF MINUTES:** Andy Hoehn made a motion in the affirmative to approve the minutes as emailed. Motion seconded by Keith Spurgeon. **Motion carried.**

**ATTORNEY TRENT VAN HAAFTEN:** What you would want to do is entertain a motion to take a matter out of order on the agenda and pass that.

**MARK SEIB:** I would like to ask for a motion to take the complaint at 100 South Sharp Street, Poseyville, Indiana, out of order and bring it to the front.

Keith Spurgeon made a motion in the affirmative to take the complaint at 100 South Sharp Street, Poseyville, Indiana, out of order and bring it to the front. Motion was seconded by Andy Hoehn. **Motion carried.**

**MARK SEIB:** We will now take up the complaint at 100 South Sharp Street, Poseyville, Indiana, the Collins.

**MINDY BOURNE:** This complaint was filed back in May 2021. A shed was placed on the property and there was not a permit for the shed. I sent Mr. Collins a letter explaining that he needed to contact the office. We explained the process of how he could get this corrected. I told him he would need to file a Special Use for that particular use. They filed the Special Use application and that was denied by the BZA. It was then appealed and it was ruled in favor of the Collins. The BZA then appealed that decision and it was ruled in favor of the BZA. That is where we are at this time. The shed is currently not on the property.

**MARK SEIB:** I am assuming the Collins would like to speak.

**ATTORNEY CRYSTAL WILDEMAN:** Thank you. I am the attorney for the Collins' family. My address is 124 SE 1<sup>st</sup> Street, Evansville. This is the APC hearing. We came before this meeting to the BZA hearing this evening. The Collins filed a new Special Use application, separate from the one Ms. Bourne just described. The new Special Use application as of about 6:30 was also denied by the BZA with regard to the same residential storage structure and the same lot. I believe what is on your agenda is the original complaint perhaps from Mr. Wagner. I don't know if Mr. Wagner is still here. I would submit as a result of the second denial as well as the shed not actually being on the property at this point, that the issue is moot. If you have any questions for me or my client, we are here.

**MARK SEIB:** Does anyone have any questions?

**ANDY HOEHN:** I know Mt. Vernon had done an ordinance that allowed sheds/garages on lots prior to housing. Can you tell me, did Poseyville adopt that change that was done to the ordinance? That would have been put out to other jurisdictions to have made comment or vote on it, I believe.

**ATTORNEY CRYSTAL WILDEMAN:** That is my understanding as well. I can't speak for the Town of Poseyville. It was my understanding that there is a pending or proposed ordinance that has to do with storage structures on lots that has been read and is under review perhaps for vote next week. One of the points that we made in our presentation to the BZA is even if that were the case, the law applicable to the application is the law as of the date of the application which was September 6, 2022. That ordinance was not in affect as of that time.

**MARK SEIB:** And that is exactly right. We have to focus on the complaint that we have. That is the only thing we can focus on.

**ANDY HOEHN:** That should have gone before Poseyville long before that. We did ours years ago. This should have been within the same period of time.

**ATTORNEY TRENT VAN HAAFTEN:** It is my understanding that they did not adopt the same thing the Mt. Vernon adopted. They being Poseyville. Is that correct, Mindy?

**MINDY BOURNE:** No. The original ordinance did not allow residential storage structures in Residential Zoning Districts and there was an amendment proposed in '14. All of the jurisdictions passed that amendment for their ordinances. It's the same whether you're in Mt. Vernon... I mean you have to file a Special Use. It is not a use by right.

**MARK SEIB:** The only difference is that Mt. Vernon has their own Comprehensive Plan.

**ANDY HOEHN:** That would be part of the difference. The other difference is that this is a county body. We have to be uniform across the county.

**MARK SEIB:** There are some variations throughout the ordinances. Some of them are not the same.

**ANDY HOEHN:** Some are, but this one is.

**MARK SEIB:** This one is. We are not addressing the one that is currently being presented. We are dealing with the one that was here on the complaint that the shed was put on the property without a permit.

**ANDY HOEHN:** So the permit is the question?

**MARK SEIB:** The permit was part of the question. The shed was put on the property without a permit. We tabled it because it was being handled by the BZA. So we didn't go any farther with it on the APC until after the BZA made its ruling. Unfortunately, the Collins sued because they did not agree on the case, the decision. There was a decision on that. The BZA decided they did not agree with that and they appealed the case. It went to the State Appeals Court.

**ANDY HOEHN:** But none of that was on whether they filed for a permit or not.

**ATTORNEY TRENT VAN HAAFTEN:** It is very similar to the complaint that we had a couple of meetings ago about the lady raising chickens at her home. We had the complaint. When she first appeared, the ordinance allows certain domestic animals on property. She was given instructions to apply for the Special Use to have those animals on her property. We put that complaint on hold and she went through that process. She got the Special Use approved and that made the complaint moot. In this situation, the complaint came to us, they had not applied for a Special Use so technically it was in violation of the ordinance. Mindy instructed them to apply for the Special Use. We tabled it and let them deal with the BZA. All of that has gone through a number of steps and now we are kind of back here. That complaint that was tabled was still sitting around. It's the question of whether you want to address the complaint because they had the barn there without a permit. They attempted to get the permit, they haven't and the barn is no longer there. What does this board want to do with the complaint?

**ANDY HOEHN:** At this point it is kind of moot. I think there is a lot more things going on here. We need to be aware of the decisions thinking about those things. We are a county-wide board. We can't be doing one person this way and another person that way.

**ATTORNEY TRENT VAN HAAFTEN:** What I would say is that we instructed them how to remedy the situation.

**ANDY HOEHN:** I understand that. This point is moot on this particular complaint. I get that. But there is a bigger tornado that is spinning up high that hasn't hit the ground yet. I don't understand why we would treat some people one way and other people a different way.

**MARK SEIB:** That is a discussion we can have later. I think what we have before us is the complaint.

**RANDY OWENS:** The situation is resolved because the structure is no longer there, so are we finished with this complaint?

**MARK SEIB:** That is up to the board to decide if there are any actions on that or not.

A motion was made in the affirmative by Randy Owens to take no further action on the complaint filed on 100 Sharp Street, Poseyville, IN. The motion was seconded by Andy Hoehn.  
**Roll Call Vote (5-0). Yes. Motion carried.**

**MINOR SUBDIVISION:**

DOCKET NO: 22-14-S-APC

APPLICANT: Joe Lupfer

OWNER: Lupfer Farms, Inc.

PREMISES: Part of the Southwest Quarter of Section 12, Township 4 South, Range 12 West, lying in Smith Township, Posey County, Indiana. More commonly known as Owensville Road & Church Street, Cynthiana, Indiana. Containing 1.48 acres more or less. (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 Cynthiana North Minor Subdivision in an RM Zoning District under The Subdivision Control Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville and Unincorporated Posey County.

Mr. Seib then confirmed no board members had a conflict of interest.

Mr. Seib confirmed with Mrs. Bourne that the applicant has met all the requirements for notification per the statute.

**MARK SEIB:** Who is here wishing to speak? Take the podium, please. State your name and your home address.

**ATTORNEY TRENT VAN HAAFTEN:** If I may interrupt, as President Seib said we have 5 voting members. It takes a majority of the membership to create a quorum. But for official action, it takes a majority of the entire membership of the APC to pass. As was mentioned earlier, you will need the affirmative vote of all 5 to pass. If it doesn't pass, you will have to wait a year to reapply.

**JOSEPH LUPFER:** 9601 Cleveland Rd., Cynthiana, IN. We bought the old mobile home park in Cynthiana several years ago and I cleaned it up and with Mindy Bourne's help we have rezoned things correctly. On the very end of it is an area that I do not farm. Habitat approached me last year about building something there, it is a small area that I don't farm anyway. So we rezoned it to be residential. There are a few lots that Fred Kuester got sorted out. So we are here for the Cynthiana North Minor Subdivision to make those lots legal to build a house on.

**MINDY BOURNE:** There is a Subdivision Committee Report in your folders, which outlines everything Mr. Lupfer explained. I do want to mention that these lots are on city utilities. That means you can have smaller lots for these properties. In the county it is 1 acre lots.

**MARK SEIB:** Any questions for Mr. Lupfer? With none, you may have a seat. We will now open this application up to public comment. Is there anyone here wishing to speak for or against this application? Hearing and seeing none, we will close the public portion.

Mr. Seib confirmed with Mrs. Bourne that there had not been any phone calls, letters, or emails concerning this application.

**MARK SEIB:** It is now up to the committee to discuss amongst themselves and take action as they see fit.

A motion was made by Andy Hoehn in the affirmative for preliminary approval and authorize Executive Director to give final approval after 30 days have elapsed for Replat 22-14-S-APC. Motion was seconded by Randy Owens. **Roll Call Vote (5-0). Yes. Motion carried.**

**MINDY BOURNE:** This Minor Subdivision Plat has been approved. It has to receive preliminary and final approval. This is preliminary approval tonight and 30 days have to elapse before final approval can be granted. They have authorized me to give final approval after 30 days. That means you don't have to come back before this board again, no more public hearings. I'll just sign the plat after 30 days and Mark will sign the plat and you can get it recorded and you're done.

**REPLAT:**

DOCKET NO: 22-15-S-APC

APPLICANT: Greg Kissel – Kissel Land Surveying LLC

OWNER: Dane Michael & Erika Rose Maurer

PREMISES: Lots #45 and #46 in Woodstone Estates Phase IV of Section 13, Township 6 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. Containing 2.041 acres more or less. More commonly known as 2641 & 2681 Pinewood Court, Evansville, IN. (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 Replat in an R-1 Zoning District under The Subdivision Control Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville and Unincorporated Posey County.

Mr. Seib confirmed no board members had a conflict of interest.

Mr. Seib confirmed with Mrs. Bourne that the applicant has met all the requirements for notification per the statute.

**MINDY BOURNE:** The applicant has asked that this be tabled until next month at the December 8 meeting.

A motion was made by Joe Marvel to table this application until the December 8, 2022 APC meeting. Motion was seconded by Keith Spurgeon. **Roll Call Vote (5-0). Yes. Motion carried.**

**REZONING:**

DOCKET NO: 22-12-RE-APC

APPLICANT: David Esche

OWNER: David A. & Kathy Sue Esche

PREMISES: Beginning at the Southwest Corner of the Southwest Quarter of the Southwest Quarter of Section 10, Township 6 South, Range 12 West, lying in Robinson Township, Posey County, Indiana. More commonly known as 1920 Ford Road N., Mt. Vernon, Indiana. Containing 1.142 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 A (Agricultural) Zoning District to R-1 (Residential Single Family) Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mr. Seib confirmed no board members had a conflict of interest.

Mr. Seib confirmed with Mrs. Bourne that the applicant has met all the requirements for notification per the statute.

**MARK SEIB:** Who is here to speak on behalf of this application?

**DAVID ESCHÉ:** 1920 Ford Road, Mt. Vernon, Indiana. My wife Kathy and I are in the process of forming an LLC for all of our farm properties. Our wish was to take the home and one acre of ground and make separate from the LLC. Mindy said the only way I could do that with only one acre was to Rezone.

**MARK SEIB:** Does anyone have any questions for him at this time? Have a seat, please. At this time, we'll open the public portion. Is there anyone here wishing to speak for or against the proposed Rezoning? Seeing and hearing none, we will close the public portion.

Mr. Seib confirmed with Mrs. Bourne that there had not been any phone calls, letters, or emails concerning this application.

**MINDY BOURNE:** He is asking to rezone 1.142 acres and that is subdividing the property. There are different ways that you can subdivide. With the amount of acreage he is proposing to do, it falls under a Minor Subdivision. A Minor Subdivision says you have to be zoned residential. Since this property is zoned agricultural, the first step is to rezone it to residential. It will go through this board and it will go to the County Commissioners. If that gets approved, his

next step is to file a Minor Subdivision like what Mr. Lupfer just did then it will come back before us and will go through that process like he just did.

**JOE MARVEL:** So this is just zoning the house as residential and leaving the rest as agricultural? Then it becomes a Minor Subdivision because of the size of the lot.

**MINDY BOURNE:** There are limitation on the size and the number of lots for a Minor.

A motion was made in the affirmative by Keith Spurgeon to recommend approval of Rezoning Docket #22-12-RE-APC. Motion was seconded by Joe Marvel. **Roll Call Vote (5-0). Yes. Motion carried.**

Andy Hoehn made a motion to approve the Findings of Fact. Motion was seconded by Joe Marvel. **Roll Call Vote (5-0). Yes. Motion carried.**

**MINDY BOURNE:** This is a recommendation to the County Commissioners. This is on their agenda for next Tuesday at 9:00 a.m. I will be there but you will need to be there as well in case they have any questions.

**REZONING:**

DOCKET NO: 22-13-RE-APC  
APPLICANT: Nicole Meny  
OWNER: Zachary & Nicole Meny  
PREMISES: Part of the Northeast Quarter of the Southwest Quarter of Section 24, Township 4 South, Range 12 West, lying in Smith Township, Posey County, Indiana. More commonly known as 11331 Water Tank Road, Cynthiana, Indiana. Containing 1.50 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 A (Agricultural) Zoning District to B-3 (Commercial High Intensity) Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mr. Seib confirmed no board members had a conflict of interest.

Mr. Seib confirmed with Mrs. Bourne that the applicant has met all the requirements for notification per the statute.

**MARK SEIB:** Who is here wishing to speak?

**ZACH MENY:** Basically what we are wanting to do with the 1.5 acres rezoned is to put a business that would be mostly storage. There may be some entity where there is some retail and people would be coming in to pick up a product. We are in the distribution business of pinball and arcade machines. Really happy and proud to potentially bring some growth to the area. That is what we are requesting. We are going to tentatively build a commercial structure there

that is mainly going to house all of the products until they are going to and from across the country to different residential areas or customers. It will be a holding area for the most part for the products but also loading docks whether it is FedEx freight or what other entity would come to drop off the products, we would store them and then send them back out. We are looking at a semi there maybe once or twice a week, we will have a loading dock there and everything. It is a small business but we would have enough traffic to warrant having a loading dock. The majority of our business is done with selling products across the country whether it being Washington State, New York State, but there are customers that will come locally, whether it be Kentucky or here locally to pick up a product. We would request that be also part of the commercial entity that we are wanting to establish.

**MARK SEIB:** Is there any signage that you are going to put up other than on the building?

**ZACH MENY:** No, I think it would just be signage to let customers know where we are located.

**MARK SEIB:** It doesn't look like there would be any other housing extremely close, I mean adjacent to the property.

**ZACH MENY:** The entirety of the property right now that is zoned 6.5 acres that we own of my grandparents before us, we purchased that. We are requesting that 1.5 of that 6.5 is made into Commercial and the rest remain has a farm house on the property and a barn as well.

**JOE MARVEL:** Which part of that parcel would you be doing the 1.5 acre out of, the west side?

**ZACH MENY:** That would be the east side of the property.

**JOE MARVEL:** So east of the barn?

**ZACH MENY:** Yes that would be correct.

**JOE MARVEL:** Would this require us to do a Subdivision to split that parcel out?

**MINDY BOURNE:** No, they can just request or petition a portion of the property.

**MARK SEIB:** Because it is a business and not a residential is why the difference Joe.

**KEITH SPURGEON:** So the area outlined in black is the whole parcel, the whole 6.5 acres? But he is only asking for 1.5 acres?

**MINDY BOURNE:** Here is a copy of the plat, but it doesn't reference the house and all of that. But the portion they are talking about is where the existing barn is now.

**ZACH MENY:** Actually it would be next to that.



**MARK SEIB:** So it would be east of that barn is what you are trying to tell me.

**ZACH MENY:** Correct. We live in the Darmstadt area and our home is for sale. We have plans to move to that area as well. We have also been blessed with four children and potentially down the road you know having them live on the property as well when they grow up too.

**MARK SEIB:** So you would rezone more of that agricultural land in the future.

**ZACH MENY:** Yes, that is just an indication of our desire to be there long term.

**MARK SEIB:** Are there any questions from the committee? No questions. Thank you, you may have a seat. We will now open it up to the public portion. Is there anyone here who wishes to speak for or against the proposed Rezoning please come forward? Seeing and hearing none we will close the public portion.

Mr. Seib confirmed with Mrs. Bourne that there had not been any phone calls, letters, or emails concerning this application.

**JANET BAAS:** I would like to ask a few questions?

**MARK SEIB:** You should have asked any questions during the public portion but let me ask the board if it would be OK to reopen the public portion. Hearing no objections, you may come to the podium, state your name and address.

**JANET BAAS:** 7199 Stonebridge Rd, Newburgh, Indiana. My questions are if the Meny's decide to sale and leave that property, would the property go back to being zoned agricultural like it was before? How does that work? For people who are around the area just wanting to make sure that the property stays in good standing if the owners decide to vacate or sell?

**MARK SEIB:** It would stay B-3. Once we rezone it that is what it stays until it is applied for again. Now you can go back to Ag before you sell it or do whatever with it. Once it is zoned for what they are asking for which is B-3 that is what that 1.5 acres would be considered. So they could sell it with the B-3 zoning and another industry could come in which is listed as a B-3 and change hands and would not have to come before this board.

**JANET BAAS:** So I am hearing you say that they could sell the property and a difference type of business can come in and take its place.

**MARK SEIB:** As long as it meets the requirements of the ordinance of a B-3 or less. They can't go up. You can't put heavy manufacturing on it or anything like that.

**JANET BAAS:** And the type of business that is B-3, can you describe or list what kind of business you are talking about to help understand what those would be.

**MINDY BOURNE:** It is Commercial Zoning District any kind of commercial/retail type use.

**JANET BAAS:** In terms of the professionalism of the structure, I know you talked about a semi coming once or twice a week and signage, are there any kind of mandates or requirements on boxes or things being left outside? Is there any kind of stipulation that the Commission has or mandates on that?

**MARK SEIB:** When they are zoned B-3 there are restrictions about having products outside. Also when they start to build the structure they will have to go before a Site Development Plan. Because changing to a business, they will have to bring their plans to the Area Plan to be reviewed and discussed to make sure there are adequate parking, unloading facility and everything would have to be discussed.

**JANET BAAS:** I have no further questions. Thank you.

**MARK SEIB:** Discussion by the board or action by the board?

**JOE MARVEL:** Is high traffic the correct zone if you are only talking 1-2 trucks a week?

**MARK SEIB:** That is considered low, it is not a high traffic area. You take into consideration SABIC, that is high traffic. The second part of this process is they have to come back and go through a building phase and that is where we are going to be looking at specifics. Making sure that everything is workable and has adequate everything required in the ordinance.

**KEITH SPURGEON:** My concern or hesitancy is do you want a B-3 in the middle of a sea of agriculture. Is that an issue or not?

**JOE MARVEL:** They are right next to Blankenberger Brothers Construction with all of the heavy equipment right off of the interstate that you can see from the interstate.

A motion was made in the affirmative by Randy Owens to recommend approval of Rezoning Docket #22-13-RE-APC. Motion was seconded by Andy Hoehn. **Roll Call Vote (5-0). Yes. Motion carried.**

Andy Hoehn made a motion to approve the Findings of Fact. Motion was seconded by Joe Marvel. **Roll Call Vote (5-0). Yes. Motion carried.**

**MINDY BOURNE:** This is a recommendation to the County Commissioners. They will hear it this Tuesday at 9:00 a.m. in this room. I will be there to present but you will need to be there as well in case they have any questions.

**COMPLAINTS:** 607 E. 4<sup>th</sup> Street, Mt. Vernon, IN (Hazlett)  
822 W. 3rd Street, Mt. Vernon, IN (King)  
Luigs Road, Wadesville, IN (Hearten)  
714 W. 6<sup>th</sup> Street, Mt. Vernon, IN (Cross)  
100 S. Sharp Street, Poseyville, IN (Collins)  
10422 Blake Road, Wadesville, IN (Alvey)

600 Mill Street, Mt. Vernon, IN (Allen)  
3120 Bufkin Springfield Road, Mt. Vernon, IN (2) (Stallings)  
418 W. 8<sup>th</sup> Street, Mt. Vernon, IN (Stewart)  
732 E. 3<sup>rd</sup> Street, Mt. Vernon, IN (Simpson)

**MARK SEIB:** 607 E. 4<sup>th</sup> Street, Mt. Vernon, IN.

**ATTORNEY TRENT VAN HAAFTEN:** This was the pallet complaint that I reported last time. It has been continued until January

**MARK SEIB:** So that should be resolved in January?

**ATTORNEY TRENT VAN HAAFTEN:** Yes.

**ANDY HOEHN:** I haven't seen any activity there. We should just let this complaint roll over until January.

**MARK SEIB:** 822 W. 3<sup>rd</sup> Street, Mt. Vernon, IN.

**ATTORNEY TRENT VAN HAAFTEN:** As I reported last time, this King is a brother to the gentleman that recently passed away. I am handling the estate. One or two of those vehicles that are down there on West 3<sup>rd</sup> are actually owned by the estate. I think one may be sold. I am kind of overlapping on this, but we are trying to get it resolved.

**MARK SEIB:** Will there be a problem with trying to move forward with removing that?

**ATTORNEY TRENT VAN HAAFTEN:** I don't think so.

**RANDY OWENS:** How long do you think it will take to resolve it?

**ATTORNEY TRENT VAN HAAFTEN:** I hope by maybe next meeting I will be able to report that it is resolved. There is an estate auction.

A motion was made in the affirmative by Randy Owens to table the complaint at 822 W. 3<sup>rd</sup> Street, Mt. Vernon until the next meeting. Andy Hoehn seconded the motion. **Roll Call Vote (5-0). Yes. Motion carried.**

**MARK SEIB:** Luigs Road, Wadesville, IN.

**ATTORNEY TRENT VAN HAAFTEN:** This one is in court and we are set for a trial on November 18. An Ordinance Violation was filed. He appeared in court and he denied it, so we have it set for a trial next Friday. He was in jail. I am not sure if he is still in jail.

**MARK SEIB:** We are taking action and it is in court.

**MARK SEIB:** 714 W. 6<sup>th</sup> Street, Mt. Vernon, IN

**MINDY BOURNE:** This is one we have been working on. This was about a camper parked in an alley with someone living in it. This one actually started back in June. The problem I was having was getting them to respond to the letters that I had sent and getting the letter served to them. I believe last meeting we were still checking on service. They were served on September 2. They never did contact our office. They just basically moved it around their property. It started off in the rear and to the front/side street. On November 4 I had a picture that it was gone. I thought we were done. However, I got a call from Sherry Willis this afternoon that it has been moved to another property. I told her she needed to fill out a new complaint with the address where it is located at now. So she has filed that complaint with me today, but I have to go through the process on that complaint and send out letters since it is a new property. This location at 714, there is no camper there.

**KEITH SPURGEON:** So it is possibly resolved?

**MINDY BOURNE:** Yes.

**JOE MARVEL:** Just out of curiosity, is it the same ownership of the two properties?

**MINDY BOURNE:** I got this at the end of the day. She said it was, but when I looked in our GIS system, it is not. I don't know if it is in the process of being transferred. I haven't done my total investigation yet.

**JOE MARVEL:** Do we want to hang onto this and tack it on if it is the same ownership?

A motion was made in the affirmative by Joe Marvel to table the 714 W. 6<sup>th</sup> Street, Mt. Vernon complaint. Andy Hoehn seconded the motion. **Roll Call Vote (5-0). Yes. Motion carried.**

**MARK SEIB:** 10422 Blake Road, Wadesville, Indiana.

**MINDY BOURNE:** We talked about this one last month. The owner did contact the office on 10/31/22 at 10:58 a.m. He stated that nothing was being done and that he only has materials on the trailers. He did burn some old decks that he took off, but the treated lumber they loaded up and hauled off. Becky talked with Mr. Alvey on 11/1/22 at 8:47 a.m. She asked that he attend the meeting. He asked that she email the complaint and the meeting date and time.

**MARK SEIB:** Is anyone here for 10422 Blake Road? Seeing and hearing none, is there anyone here wishing to speak?

**MINDY BOURNE:** It was stated that the owner was Michael Poe and we found out that the property had changed ownership. I was able to serve Mr. Alvey, who is the new owner.

**JOHN STOFLETH:** 10650 Winery Road, Wadesville, Indiana. I have observed construction vehicles accessing the property to offload equipment and do various construction related activities. I have photos as of October 3 of the Clutch Customs trailers accessing the property. I believe the property is currently zoned as agriculturally use. I don't see any evidence of it being

used as such for agricultural purposes. I have photos from September 9 of a large fire on that property being burned of what appeared to be construction material that you could see from across the road where I reside. Those are the latest updates as far as what I have observed and documented. I had emailed all of the photos, I think, to Mindy. I may have not sent her the most recent photos.

**MINDY BOURNE:** You sent some with the complaint. You sent me an email on October 11 with some photos.

**JOHN STOFLETH:** And I think my understanding is that Clutch Custom Construction vehicles have been accessing the property even prior to the transfer of ownership. I think when Mike Poe owned the property it was being utilized by the Clutch Custom Construction, who is owned by Mike Alvey, I believe. That property has been transferred to him I think as of October.

**MINDY BOURNE:** It was as of our meeting last month and that is what I reported. I had just noticed a change of ownership.

**ANDY HOEHN:** Who owns the property now?

**MINDY BOURNE:** Trevor Alvey.

**ANDY HOEHN:** The construction company.

**MINDY BOURNE:** He owns this property and the construction company.

**AARON NEUFELDER:** Does that need to be rezoned?

**MINDY BOURNE:** If he is using it for a business, it does.

**MARK SEIB:** Now comes the part of proving it.

**AARON NEUFELDER:** He has his truck parked there.

**MARK SEIB:** We have pictures of the truck, we find advertisement and we find... We are starting to build a case. John, I don't think anyone has any other questions. Thank you for your help. You may have a seat.

**JOE MARVEL:** It's pretty obvious to me that they are hauling their trash there and burning it.

**MARK SEIB:** Construction trash.

**JOE MARVEL:** Yes, and it is all flavors of construction trash. We have pictures of all different kinds of stuff.

**MARK SEIB:** So you have made contact with him?

**MINDY BOURNE:** He contacted the office.

**MARK SEIB:** He was going to try to be here? Has he been fairly accommodating when you make phone calls or when you are trying to reach him?

**MINDY BOURNE:** The two times he was spoken to, it was not by me. Carol spoke to him the first time and Becky spoke to him the second time.

**MARK SEIB:** Do you want to leave it with Mindy or do you want to turn it over to Trent?

**ANDY HOEHN:** I would like to leave it with Mindy and have some photographs taken and if they show nothing is being done or not enough being done, then it be turned over to Trent.

**MARK SEIB:** So if Mindy feels they are not doing enough action to clean it up and not conduct business, we will turn it over to Trent.

Andy Hoehn made a motion in the affirmative to leave this complaint with Mindy to see if they show the property is cleaned up and no business being conducted on the property. If it does not, we should turn it over to the attorney. Motion was seconded by Keith Spurgeon. **Roll Call Vote (5-0). Yes. Motion carried.**

**RANDY OWENS:** Right now there is evidence of construction activity because they are hauling waste in and burning it. What if they were just storing their trailers there? Would that be a violation?

**MARK SEIB:** It is still a construction company.

**MARK SEIB:** 600 Mill Street, Mt. Vernon, Indiana.

**MINDY BOURNE:** This is a new complaint. Mr. Allen has spread rock on a drive on Mill Street. He has made a parking lot with rocks along the side of the building which also runs out onto the street. So basically this is gravel parking area that was created.

**MARK SEIB:** Are they saying it was new rock that was put on...

**MINDY BOURNE:** Yes, they created a parking lot and a drive. This is in violation of the all-weather surface in the residential zoning district of Mt. Vernon. I sent them a letter to the property owner. I got the certified card back saying that he received the letter, but he has never contacted the office.

**MARK SEIB:** Is there anyone here wishing to speak on behalf of this complaint? Seeing none.

**MINDY BOURNE:** The photos as of November 4 show the gravel is still there.

**JOE MARVEL:** Is that a remodel job going on at that place?

**MINDY BOURNE:** Yes, that has been going on for some time now.

**JOE MARVEL:** I didn't know if the gravel was just for traction purposes or if that was a permanent fixture there.

**KEITH SPURGEON:** The next step would normally be to have Trent send him a letter.

Keith Spurgeon made a motion in the affirmative to have Attorney Trent Van Haaften send the property owner a letter. Motion was seconded by Joe Marvel. **Roll Call Vote (4-1). Motion denied.**

**MARK SEIB:** It takes a majority vote to pass. Now we will go back to the action. What action would you like?

Andy Hoehn made a motion to table this complaint until the January 2023 meeting. Motion was seconded by Joe Marvel. **Roll Call Vote (5-0). Yes. Motion carried.**

**ANDY HOEHN:** There has been some discussion as to whether Mt. Vernon may change to allowing a certain amount of gravel. The discussion is kind of out there. The gravel may be ok if there is an apron of concrete to the street. It's kind of in discussion right now and I don't know where it is going to fall. I don't want any legal action started and then we change this. I don't have a clue where this is going to go or how long it is going to take. We need to give the Council time to work through this and sort this thing out.

**MARK SEIB:** I just want to make sure we have this clear. Trent, this violation is done now and wouldn't the violation fall under what the ordinance is now versus if they change? Do we feel that it is acceptable to do that?

**ATTORNEY TRENT VAN HAAFTEN:** It's the violation as of the date of the violation. The law applies on the date of violation. You as the policy deciders, acting with your discretion, direct the enforcement. If it was decided that the law may change so let's put this off and let's enforce this at a later time that is your discretion.

**MARK SEIB:** I just want to make sure that we stay within the legal bounds.

**ATTORNEY TRENT VAN HAAFTEN:** If it shows up in January and the board decides we need to do something about this, you can decide to do something about it.

**KEITH SPURGEON:** My only thought is that when we were directing Trent to take it to the next step, my thought was that it wasn't legal action and it was a typical nasty letter from an attorney to get him to respond. My concern was that he didn't even respond. If he had of responded then we could have said that maybe we wanted to table it. I didn't like the idea that he didn't respond. I understand what you are saying too.

**RANDY OWENS:** Is this a multi-unit building?

**ATTORNEY TRENT VAN HAAFTEN:** This is the old church at 5<sup>th</sup> and Mill. He built a second floor onto the building. I believe he is going to turn it into apartments.

**RANDY OWENS:** Would it have to be rezoned for that?

**MINDY BOURNE:** It is zoned multi-family.

**MARK SEIB:** 3120 Bufkin-Springfield Road, Mt. Vernon.

**MINDY BOURNE:** There were two separate complaints that were filed on this property by two different people. The first complaint is about a fence on the north side that they believe is over the property line and they don't believe a permit was purchased.

**MARK SEIB:** Was there a permit?

**MINDY BOURNE:** There was not a permit. I sent the property owner a letter and they did contact our office. They came into the office to get permits to get both of these complaints resolved. The second complaint was about a shed that they built on the south property line and they claim that one as well is on their property and they don't believe they got a permit. I sent a letter to the property owner for both complaints. They did come into the office to address the complaint. They got a permit for the fence and a storage shed. There was discussion about property lines. The owners are here and I will let them come forward and explain to the board.

**MARK SEIB:** That's fine. Did you research the property lines?

**MINDY BOURNE:** There were some discrepancies on the GIS which we talked to the owner about that. Jeanne with the Assessor's Office had to adjust some lines. So they should be accurate on the GIS, but I think the property owner still has some concerns on the property lines and was talking about getting a survey. So I am going to let them discuss with the board.

**REJONNA STALLINGS:** 3120 Bufkin-Springfield Road, Mt. Vernon.

**MARK SEIB:** Do you feel that everything was taken care of when you got your permit and that the shed and fence are on your property?

**REJONNA STALLINGS:** Yes. There is one little discrepancy between the two houses where the shed was at. It's the opposite from the fence. We have the shed prepared to move, but they haven't come to move it yet.

**MARK SEIB:** You are going to move it?

**REJONNA STALLINGS:** Yes, it is not on their property, but it is only about 47" from the corner of the house. We didn't know it had to be farther.



**MINDY BOURNE:** I'm going to back up. We've explained that property line disputes are civil matters. We can't get into that. However, when they come in to get a permit, we look at the GIS and there are certain distances to property lines. A lot of it falls on the owner and they need to be responsible and know where their property lines are.

**REJONNA STALLINGS:** We've lived there for 56 years. We had the property lines marked, but my nephew came into possession of the house. My nephew before that, it was a drug house. It was my mom and dad's house and he used it for drugs. Then my other nephew bought it at a tax sale. The property line is just at the corner of the porch on the side yard. It was marked. He took the marker up that my dad put there 56 years ago so we wouldn't be in each other's property. He took it up and we put another one there, we put it twice. He took those up too.

**MARK SEIB:** Is that a surveyor's mark?

**REJONNA STALLINGS:** It was.

**MARK SEIB:** That is against the law.

**REJONNA STALLINGS:** Yeah, I know, but he took it up. We are aware of where the property line is. I think the GIS picture shows that our shed is possible on him 3", but it's not.

**MARK SEIB:** And you are in the works right now to move the shed?

**REJONNA STALLINGS:** Yes.

**MARK SEIB:** And the fence, has it been determined that it is ok?

**REJONNA STALLINGS:** We decided that we are not going to have a survey right now because we will probably have to get one when we sell it. We are 78 years old and I think it's time to do something else.

**MINDY BOURNE:** The fence can be right along the property line. We've already issued a permit. We've spent a lot of time trying to get this all resolved.

**REJONNA STALLINGS:** I appreciate you all. I appreciate Becky and Mindy's hard work in getting it straightened out.

**MARK SEIB:** Before you leave, are there any questions from the committee that they would like to ask? Hearing none, you may have a seat.

Andy Hoehn made a motion in the affirmative that this complaint is resolved. Motion was seconded by Randy Owens. **Roll Call Vote (5-0) Yes. Motion carried.**

**MARK SEIB:** 418 W. 8<sup>th</sup> Street, Mt. Vernon.

**MINDY BOURNE:** This is a new complaint. It's about someone living in a camper on a piece of property. I was having trouble getting the letter served to him. It just got served this week. When I had it served by sheriff, I had extended his response date to November 14. He has until Monday to contact me. So we need to table this one until December.

Randy Owens made a motion to table this complaint until the December meeting. Motion was seconded by Joe Marvel. **Roll Call Vote (5-0) Yes. Motion carried.**

**MARK SEIB:** 732 E. 3<sup>rd</sup> Street, Mt. Vernon.

**MINDY BOURNE:** This is a new complaint about vehicles parked up in the yard. It also goes on to say there is a van with someone living in it and a tent with somebody living in it. The vehicles parked in the yard is what I sent the complaint letter on. They were sent a letter and I've received no contact.

**ATTORNEY TRENT VAN HAAFTEN:** This property is owned by the Allyn Agency which is a number of different owners. When we got this... I represent them on a few things. I contacted Ken and he said he turned it over to another family member to contact the Max at the City and try to address it. That is the last I've heard from them. I see the pictures from November 4. It looks a little better than it did before.

**MARK SEIB:** Basically things have been moved around but that is about it.

**MINDY BOURNE:** There is one vehicle gone.

**MARK SEIB:** But you still have that one in the grass.

**ATTORNEY TRENT VAN HAAFTEN:** I can follow up with Roger Simpson and see where they are at and what they are doing with it.

**JOE MARVEL:** I do have a conflict of interest on this because I do work for the Allyn's.

**MARK SEIB:** With that being said, we will not have enough to have a quorum then.

**DIRECTOR'S REPORT:** None

**APPROVAL OF PAYROLL AND BILLS:** A motion was made in the affirmative by Keith Spurgeon and seconded by Joe Marvel to approve payroll and bills. **Motion carried.**

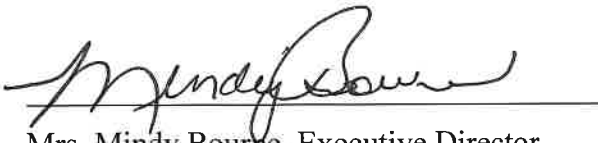
**REPORT OF COLLECTIONS:** A motion was made in the affirmative by Joe Marvel and seconded by Keith Spurgeon to approve collections. **Motion carried.**

**CITIZEN CONCERNS:** None

Andy Hoehn made a motion to adjourn the meeting at 8:09 p.m.

A handwritten signature in cursive script, appearing to read "Mark Seib", written over a horizontal line.

Mr. Mark Seib – President

A handwritten signature in cursive script, appearing to read "Mindy Bourne", written over a horizontal line.

Mrs. Mindy Bourne, Executive Director

October 13, 2022

Staff Comments: The property being petitioned to be rezoned from A (Agricultural) to R-1 (Residential Single Family) is 1.142 acres more or less. The property is located at 1920 Ford Road N., Mt. Vernon, IN. Property abutting this site is owned by the following:

1. Harold D. & Barbara J. Strupp Rev. Livin., 1810 N. Ford Rd., Mt. Vernon, IN 47620
2. Steven P. Reineke Etal, 6401 Meier Rd., Mt. Vernon, IN 47620
3. Eugene E. & Kelley A. Esche, 1901 Ford Road, Mt. Vernon, IN 47620
4. Martin Schroeder Farms, LLC, 8721 Upper Mt. Vernon Rd., Mt. Vernon, IN 47620
5. Marvin L. & Ruth E. Redman Co-Trustees, 3601 Stallings Rd., Wadesville, IN 47638

Abutting properties are zoned A (Agricultural). This property is currently residential. The owners are proposing to rezone the property to R-1 (Residential Single Family). The uses adjacent to the proposed rezoning are as follows: Agricultural & Residential.

☒ Favorable recommendation by the APC  
☐ Unfavorable recommendation by the APC  
☐ No recommendation by the APC

PROPOSED FINDINGS OF FACT  
ON DOCKET NO: 22-12-RE-APC  
PETITION TO REZONE: David Esche  
OWNER: David A. & Kathy Sue Esche

**1. Current conditions and the character of the current structures and uses in each district.**

The Commission finds that the proposal ~~WILL~~/WILL NOT have an adverse impact on the current conditions in the area.

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**2. Responsible development and growth.**

The Commission finds that the proposal ~~WOULD~~/WOULD NOT be consistent with development and growth.

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**3. Comprehensive Plan.**

The Commission finds that the proposal ~~WOULD~~/WOULD NOT address the goals of the Comprehensive Plan.

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**4. The conservation of property values throughout the jurisdiction.**

The Commission finds that the proposal ~~WILL~~/WILL NOT have effect on property values in the jurisdiction.

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**5. The most desirable use for which the land in each district is adapted.**

The Commission finds the proposal ~~DOES~~/DOES NOT represent the most desirable use for which land is adapted.

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Motion made to adopt the foregoing findings of fact by:

Andy Hehn

Motion seconded by:

Joe Marvel

Adopted by Posey County Area Plan Commission

President: Mad Sir

Date: 11-10-22

October 12, 2022

Staff Comments: The property being petitioned to be rezoned from A (Agricultural) to B-3 (Commercial High Intensity) is 1.50 acres more or less. The property is located at 11331 Water Tank Road, Cynthiana, IN. Property abutting this site is owned by the following:

1. Koester Bros. Holdings, LLC, 11927 Diamond Island, Wadesville, IN 47638
2. Bryan G. & Amanda M. Smith, 11330 Water Tank Rd., Cynthiana, IN 47612
3. Janet Heldt Baas, 7199 Stonebridge Rd., Newburgh, IN 47630
4. Marilyn E. May Trustee, 10001 S. Oswego S. Apt 340, Parker, CO 80134
5. Cecile R. Martin Etal, 14541 Graves Ln., Evansville, IN 47720

Abutting properties are zoned A (Agricultural). This property is currently residential. The owners are proposing to rezone the property to B-3 (Commercial High Intensity). The uses adjacent to the proposed rezoning are as follows: Agricultural and Residential.

☒ Favorable recommendation by the APC  
☐ Unfavorable recommendation by the APC  
☐ No recommendation by the APC

PROPOSED FINDINGS OF FACT  
ON DOCKET NO: 22-13-RE-APC  
PETITION TO REZONE: Nicole Meny  
OWNER: Zachary & Nicole Meny

**1. Current conditions and the character of the current structures and uses in each district.**

The Commission finds that the proposal **WILL/WILL NOT** have an adverse impact on the current conditions in the area.

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**2. Responsible development and growth.**

The Commission finds that the proposal **WOULD/ WOULD NOT** be consistent with development and growth.

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**3. Comprehensive Plan.**

The Commission finds that the proposal **WOULD/ WOULD NOT** address the goals of the Comprehensive Plan.

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**4. The conservation of property values throughout the jurisdiction.**

The Commission finds that the proposal **WILL/WILL NOT** have effect on property values in the jurisdiction.

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**5. The most desirable use for which the land in each district is adapted.**

The Commission finds the proposal **DOES/DOES NOT** represent the most desirable use for which land is adapted.

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Motion made to adopt the foregoing findings of fact by:

Andy Hehn

Motion seconded by:

Joe Marvel

Adopted by Posey County Area Plan Commission

President: Mark Sah

Date: 11-10-22