

MINUTES

POSEY COUNTY AREA PLAN COMMISSION REGULAR MEETING

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

DECEMBER 14, 2023
6:00 P.M.

MEMBERS PRESENT: Mr. Mark Seib – President, Dr. Keith Spurgeon – Vice President, Mr. **MIKE BAEHL:**, Mr. Greg Newman, Mr. Andy Hoehn, Mr. Joe Marvel, Mrs. Stefani Miller, Mr. Trent Van Haaften- Attorney, Mr. David Ripple, Interim Executive Director, Mrs. Taylor Elmendorf- Administrative Assistant, Mrs. Savannah Axley-Clerical Assistant

MEMBERS ABSENT: Mr. Dave Dausman and Mr. Randy Owens

APPROVAL OF MINUTES: Mike Baehl made a motion in the affirmative to approve the minutes of the October 12, 2023, and last regular meetings as emailed. Motion seconded by Joe Marvel. **Roll Call Vote (7-0). Motion carried.**

REZONING: TABLED FROM NOVEMBER 2023 MEETING

DOCKET NO: 23-12-RE-APC

APPLICANT: Desiree Eichenberger

OWNER: St. Peter's On The Hill Inc.

PREMISES: Part of the Southwest Quarter of Section 13, Township 6 South, Range 12 West lying in Marrs Township, Posey County, Indiana. More commonly known as 2800 S. St. Philip Rd., Evansville, IN 47712 Containing 6.00 acres more or less and 3.20 acres more or less and .78 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 B-2 (Commercial General) 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 with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

Mr. Seib confirmed no board members had any conflicts of interest.

MARK SEIB: Who is here to speak on behalf of the application? Please step to the podium and state your name and address. Also give a brief on what you want to do.

DESIREE EICHENBERGER: 11120 Kramers Dr., Evansville, IN 47712. When we applied for a special use permit for our electronic sign, we were told that the attorney said that we couldn't apply for it. We were told that we had to apply to be commercial and we are zoned right now R1, like St. Philip Church a mile down the road from us that also as an electronic sign. It has been brought to my attention that the ordinance is ambiguous because you guys have interpreted it before and allowed churches to be able to get electronic signs without zoning commercial. Our church board doesn't believe zoning commercial is to our benefit because we have a parsonage on our property we do not know if a pastor is going to reside in the parsonage. Even if a pastor did someone could setup a business on our church property if we are zoned commercial, correct?

MARK SEIB: They would have to go through the due process.

DESIREE EICHENBERGER: Right, they would be able to. if we were residential, they can't, correct?

DAVID RIPPLE: If the church is the one controlling the property. I'm not sure I understand how someone else could start a business without your permission.

DESIREE EICHENBERGER: Ok, these are just some things the church board discussed that we didn't have the answers to. Another thing is our church has been there since the late 1800s and we look at that as sacred and we also have a cemetery and also consider that sacred. I don't know of cemeteries that are zoned commercial. It doesn't seem proper. We are going to withdraw from zoning commercial and I would request you would look at the ordinance, that could be made to view churches a different way that want an electronic sign. Have there been other churches in Posey County that have applied for an electronic sign since we have?

MARK SEIB: No.

DESIREE EICHENBERGER: You passed in August of 2022, I don't have it in front of me but there is a church in Wadesville that got approved for an electronic sign and didn't make them zone commercial. Husk signs got an email from the attorney that we could apply for the special use permit on July 14th, I didn't get the email until July 24th. That is 11 months since another church was ok'd to get it. I just think we are not a business, a church is not a business. I don't know if we can take our little ground that our sign is on to zone commercial, I just don't know. It just doesn't sit right with anyone in our church that it should be commercial.

MARK SEIB: When we started granting signs to those churches, there was a mistake made. In the ordinance in R1 there is a section that says no electronic signs, they don't want those signs flashing when you are sleeping. You are right, it was granted to some churches that were R1. When we found out we were misunderstanding the ordinance we stopped that. We can't continue to do it wrong by allowing people to keep applying when we know it is against the ordinance.

DESIREE EICHENBERGER: Drive out to our area. There are several places with electronic signs. There is one that is zoned agricultural that has one. Is it possible to zone a little piece of land commercial? I have never done this before, so I just don't know. We have already paid for

this electronic sign, so we want the sign we just don't think its proper for our church to be zoned commercial and our cemetery where people are buried.

MARK SEIB: I understand that, but the thing is you can understand that you wouldn't want to build a home and have a sign come up. The thing is this ordinance already stated and has been in play for some time. It is our mistake and once they found out that is the way the ordinance states, it was looked at a verified by legal that we found out we were issuing them against the ordinance, we had to stop. To zone to B2 which is very light and only certain business that can be on that. If you sold that property and discontinued the church it would still be zoned B2 and they could address it that same way, but you have to sell the property for that to happen. The only people that are not allowed to have an electronic sign is residential. That is why Mindy asked to consider moving it to B2 that would be a quick and easy fix. The other way we will be address the issues with the ordinances in '24. We will take it all under consideration to find out what we need to do to make it correct. I'm not sure if churches need to be an R1 but that is up to the counties and cities. We can look at signage to allow a church to have that type of sign but that will be in '24. The B2 to would also be good because if you would ever want to expand the church if you met the setback requirements you are done you don't have to have a hearing.

DESIREE EICHENBERGER: Another thing that bothers us is that even though we have been there since the late 1800s we just disaffiliated with the United Methodist, and we are a new church and the pastor we are bring in may not live in our parsonage. We may rent it. I called and they said if you rent it you may need to start paying taxes, we wouldn't be nonprofit anymore.

MARK SEIB: That is an IRS thing.

DESIREE EICHENBERGER: Right, but if we are zoned commercial doesn't that mean those taxes will be higher.

DAVID RIPPLE: You are still a nonprofit.

MARK SEIB: If you still remain in the eye of the IRS as nonprofit.

TRENT VAN HAAFTEN: I think what she is talking about is real estate taxes. She isn't talking about income.

DESIREE EICHENBERGER: You are saying if we zone commercial and we rented our Parsonage that we still wouldn't have to pay any property taxes on it?

MARK SEIB: Are you currently paying property taxes on that?

DESIREE EICHENBERGER: No.

MARK SEIB: Then you shouldn't have to pay if you rent it because you are the church, but Trent?

TRENT VAN HAAFTEN: That is an IRS issue in regards if you are renting it out. The way

they may possibly look at it is that you are generating income off of it as if you would just have your pastor in there you are not generating income off of it. That is a tax question. That doesn't matter what level you are zoned that is a generation of income and how a nonprofit has to report that or not.

DESIREE EICHENBERGER: Right but the IRS doesn't decide if we pay property taxes to Posey County, right? I'm talking about property taxes.

TRENT VAN HAAFTEN: Property taxes I don't think it will matter. It's not Ag so it won't matter if it is commercial or residential zoned wise, they will look at the use and tax it if they can accordingly. I don't know if that is more a question for the Assessor whether or not it would be taxed because it is a nonprofit that owns it. I'm not sure that really changes the nature of the ownership, it goes more toward the generation of income that you are making off of it as to whether you would be paying taxes.

DESIREE EICHENBERGER: You believe that since we are a nonprofit that even if we were to rent it. We might not have to pay property taxes on it.

TRENT VAN HAAFTEN: That is something that I would refer to my accountant since it is a tax issue, but nonprofits can own properties and use it to generate income. The question would you be paying taxes off that income or from the property.

DESIREE EICHENBERGER: I could be wrong, but I thought a commercial property was taxed different than residential.

TRENT VAN HAAFTEN: They are but again since you are a nonprofit owner of the property, that will play a role on whether you are taxed on it from a property standpoint. It's still being owned by a nonprofit.

DESIREE EICHENBERGER: Our attorney says their church had rented their parsonage and they never paid property taxes in Vanderburgh County. When I called the Assessor's office said we would have to pay taxes on it, I called Posey County and they said that.

TRENT VAN HAAFTEN: When asking that question, I would clarify that you are not giving up ownership of it, you are just trying to use it. There might be a nonprofit that offers some type of counseling service. They own a building where the services take place, but they are still a nonprofit. If they rent it out, you must look at the income they are generating off of it not the ownership of the property whether it would require property tax or not.

DESIREE EICHENBERGER: That was one of our concerns and I didn't voice any of this last time. We hadn't worked through it in our church. We do want to withdraw through.

TRENT VAN HAAFTEN: I think this started out with BZA on the sign. I know Mindy worked with the church for some time looking at it. I believe when the gym was built, they looked at the whole thing. Correct me if I'm wrong, there then became some questions because they may have been nonconforming and then they built a new structure which then pulls in the new view

on how to zone it. I know there is a global approach to it in terms of coming to that conclusion of changing zoning.

DESIREE EICHENBERGER: We built our gym in 2008 and we weren't asked to change our zoning. She asked us to put the three parcels together because one ran through the middle of the gym. So, we did go ahead and do that. That just means that our church, cemetery, and parsonage is all in one parcel.

TRENT VAN HAAFTEN: I know there has been a lot of discussion on how to figure this out. What I want to make clear to you is our rule is that if a person brings forth an application for Rezoning and withdraws, they cannot bring it back for 12 months.

DESIREE EICHENBERGER: Oh, what is another option? I'm coming from our board and our board voted to withdraw it.

TRENT VAN HAAFTEN: I'm sure when you voted you didn't know that. With a lot of these issues people don't know they should be jumping through some hoops. It happens all the time.

ANDY HOEHN: Can we possibly approve this pending stipulation that it gets rezoned? When You go back to 2012 properties were given a destination and there was given an R1. They didn't Ask for that.

DAVID RIPPLE: That is what existed at the time.

DESIREE EICHENBERGER: There are R1s, there are agricultural, and there is one down the street that is RM that has an electronic sign.

ANDY HOEHN: There is no question that this is a mess. I would like to see us resolve it tonight.

DESIREE EICHENBERGER: We just want our sign. We just don't feel comfortable zooming commercials right now.

JOE MARVEL: Trent, can we table it?

TRENT VAN HAAFTEN: The request is a rezoning.

DESIREE EICHENBERGER: That is just so we can get our sign.

TRENT VAN HAAFTEN: When you ask if we can approve this. This is a rezoning.

ANDY HOEHN: It's a request for a sign.

MARK SEIB: It's a rezoning.

DESIREE EICHENBERGER: They wouldn't even let us apply for the special permit. That is

what we were told from the other attorney.

TRENT VAN HAAFTEN: Like I said it started out about the sign. You look at the ordinance and it says no signs of this nature in R1 and then it went for there. Then it went to how can we solve this and looking at it the resolution for solving that was the rezoning. They own the property so unless they sell it no one is going to put a business there. Then the questions and concerns came up as they thought about it and that is where we are. Approving is approving the rezoning at this point they don't want.

DESIREE EICHENBERGER: We are just concerned that if we rent our parsonage out and someone is living there what is to stop them from opening a business there.

TRENT VAN HAAFTEN: Two things you would be a landlord and you would shut that down, that wouldn't be allowed in any lease you had. That would be immediate. If you would ignore it they would have to go through a request with these guys. So, they couldn't just open something up. You really have control of that in two ways, your lease and the other piece is if they try to start a business that is against the ordinance that is not allowed from their home. You could complain to us, and we would shut it down.

DESIREE EICHENBERGER: Ok, let's look at the other side. We have a cemetery and people buried there. Do you feel on a moral level that being zoned commercial is the way it should be zoned?

JOE MARVEL: I don't know if there is any moral objection to it being zoned heavy machinery. It's not going to do anything, it's a cemetery.

MARK SEIB: In the State of Indiana, a cemetery is safe guarded. It will always be maintained as a cemetery.

KEITH SPURGEON: It doesn't matter what it is zoned, it will always be a cemetery. Should the church no longer exist the cemetery would fall under Marrs Township to be maintained.

MARK SEIB: Is there anything else you would like to add?

DESIREE EICHENBERGER: No, but I appreciate you listening.

MARK SEIB: After this is over with call and we would be happy to discuss this more with you. Don't wait until this meeting. Call and we can discuss procedures that are allowable and making it work. The problem with the churches that are R1 that have a sign we are either going to have to make them B2 or we are going to make the change in the ordinance in 24. One of the two have to happen. We are going to have to enforce some kind of change on that we are asking them nicely to change to a different zoning that would be the easy way but if we want to wait until the ordinance which may allow something like this that we can adjust. We don't want a church to take down a sign and no one wants to refuse you but right now we are violating the ordinance. We are trying to find a way to take care of that. I hope the board can talk and find a way not to have you withdraw so you don't have to wait 12 months in case we get the ordinance done with

an easy answer for you to take care of it. If you withdraw, we will have no choice.

DESIREE EICHENBERGER: I know at some point you must correct things but I'm hoping you will amend it.

ANDY HOEHN: Are you wanting to withdraw or are you wanting to table?

DESIREE EICHENBERGER: We will put it on the table.

TRENT VAN HAAFTEN: She is wanting to table this so no decision would be made, the 12 months would not be impacted.

MARK SEIB: We can all think about this a little longer and communicate with you more and try and work this out.

TRENT VAN HAAFTEN: My suggestion would be to table it until at least the February meeting. I don't think everything would be resolved by January. I want to let you know as long as you own it no matter what it is zoned no one can do anything with it.

DESIREE EICHENBERGER: Ok.

DAVID RIPPLE: If we table it until February that is the 90 days, and a decision would have to be made at that time. As part of our procedures, you can table up to 90 days or three times and then you will have to act. I would also like to point out the applicant can withdraw at any time. Even if we would approve it, she could withdraw it prior to the County Commissioners acting on it. If you withdraw you would still have that 12-month holding period.

KEITH SPURGEON: We are a long way from adopting new ordinances too. You have already paid for the sign by the time new ordinance get adopted is several months down the road. My advice is to go back to your board and explain some of the answers you got tonight. Explain you are in charge of the property it doesn't matter if it is zoned commercial. Nothing commercial can come in because you own the property. The most expedient way to do it would probably be rezone it. That way you can get your sign quicker. At best you are six months to a year.

DESIREE EICHENBERGER: Yes, I can't do anything tonight. I think we need the questions asked that if we rent it do we owe property taxes and the rate of the tax is residential vs commercial.

MARK SEIB: That is your accountant.

DESIREE EICHENBERGER: The Posey County Assessor's office would know the rate.

GREG NEWMAN: If it is nonrelated business income, that is what we are talking about right here that is an accounting/IRS issue. If we are talking about real estate taxes that is a county issue. We need to make sure she understands there are two taxes that we are talking about here.

DESIREE EICHENBERGER: I understand that.

TRENT VAN HAAFTEN: The property tax is for the Assessor office, and you need to make sure they are aware that you are going to continue to own the property, that it is still church property.

DESIREE EICHENBERGER: When I explained it last time, they said we would have to pay taxes.

MARK SEIB: Any other questions? At this time, we will open up the public portion for comments. Is there anyone here that would like to make comments for or against this application? Hearing and seeing none, we will close the public portion.

DAVID RIPPLE: I would like to reiterate that under the rule and procedures you have 90 days from the time that the rezoning comes to you. So, if that is February that is the 90 days you have deferred, and you must act on it at that meeting.

JOE MARVEL: If their board meets and they want to withdraw that starts the 12 months starts the day they withdraw, right? They don't have to come to a meeting to do that they just need to call the office.

DAVID RIPPLE: When I receive it in writing, it is from that date that the clock begins.

JOE MARVEL: You can start the process as soon as your board decides you don't have to wait from a meeting to withdraw.

MARK SEIB: We will try Dave and maybe myself go to the church and meet with the board to answer their questions.

Joe Marvel made motion to table docket 23-12-RE-APC to the February meeting. Seconded by

Andy Hoehn. **Roll Call Vote (7-0). Yes Motion passed.**

MARK SEIB: It is tabled. Let Dave know when the next meeting with your board is. Thank you.

MINOR SUBDIVISION:

DOCKET NO: 23-10-S-APC

APPLICANT: Joe Kiesel, PS – Kiesel Wagner Survey, LLC.

OWNER: Leslie C. White Etal Co-Trustees

PREMISES: Part of the Southwest Quarter of Section 21, Township 5 South, Range 12 West lying in Robinson Township, Posey County, Indiana. More commonly known as N. Stierley Rd./Colleen Dr, Wadesville, IN. Containing 2.17 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 Minor Subdivision Plat in a 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 with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

Mr. Seib confirmed no board members had any conflicts of interest.

MARK SEIB: Who is here to speak on behalf of the application? Please step to the podium and state your name and address. Also give a brief on what you are wanting to do.

JOSEPH KIESEL: 2711 West State Road 68 Haubstadt. This is a one lot minor sub. We went through this back in October to rezone it from Ag to R1 so they could cut one lot to convey to her grandson. The reason for the rezoning is because this has already been through an Exempt years ago, they have already cut 4 lots. We are now asking for the 1 lot Minor as shown on the map off Colleen and Stierley Road.

MARK SEIB: It is just that one lot?

JOSEPH KIESEL: Yes, sir. The rest is remaining farm ground. The two owners Ron White and Darla they own the ground together, she is taking that part and he is keeping the farm ground and she is conveying her part to her grandson.

MARK SEIB: Are they intending to subdivide that other big lot in the future?

JOSEPH KIESEL: He hasn't said anything. It's his ground so they plan to continue to farm it. That's all I know.

MIKE BAEHL: Is the drive going to come off Stierley Road?

JOSEPH KIESEL: I'm not 100% sure. They have frontage on both sides. They want to get it conveyed as the first goal. Her grandson I believe is looking at house plans. I don't have an answer for that. As far as frontage I think it would be more convenient to come off of Colleen, Stierley has a pretty good hill if they were to cut a driveway in.

MIKE BAEHL: Does the county own Colleen Drive?

JOSEPH KIESEL: No, It's a private driveway easement. All the deeds are subject to that easement, his piece would be subject to that easement as well.

MARK SEIB: Any other questions. We will now open the public portion. If anyone would like to speak on this subdivision, please come forward.

LUWAYNEA LANDRUM: 8301 Colleen Drive. It's the same side West of the property, I'm at the very end of the drive. A couple months ago they rezoned it. I'm wondering why are we back in here, I don't understand why we are having to do something else?

MARK SEIB: Whenever there is a parcel property that has to be divided. It has to be looked at now, before you could take 10 acres and divide to 5 acres. We had some problems in the county, we had a developer doing that and not meeting the requirements of drainage, sewage, all those different things. The ordinance was somewhat changed to say that if you were to start to divide that then you have to make it a Minor Subdivision. That way it comes before this board again to make sure all requirements are being addressed. Now it is becoming a minor subdivision. When they come to build, they have to provide all that information in making sure perc test, tied to sewer, all those other things as well.

LUWAYNEA LANDRUM: So, once they do this on that on that 2.7 parts of it and there are 6 more acres left. What can they do with that? Are we going to be in here every 2 months rezoning those other properties? I want to know what can happen to those other properties.

DAVID RIPPLE: They would have to rezone the residual track to R1 to further divide it up.

LUWAYNEA LANDRUM: But it can still be done?

DAVID RIPPLE: Only if they go through the rezoning first, then they can go through the subdivision process. There is a difference rezoning is discretionary on a part of this board and the County Commissioners, where the subdivision is not a discretionary act so if they meet the requirements then this body must approve the subdivision.

LUWAYNEA LANDRUM: When it says a minor subdivision. On this road itself there is already 5 including this one here at the end. That means 5 people on this drive. To me that means we already have 5 people in this minor subdivision. What is a minor subdivision?

DAVID RIPPLE: The difference between a minor and a major subdivision. A minor subdivision doesn't have infrastructure like roads, waterlines, sewer lines, sidewalks. A secondary difference between a minor and a major is the number of lots that might be involved. If there are more than 3 new lots, then it has to be a major even if there is no infrastructure. So, in this instance the remaining 6 acres one resident but no further residents could be placed on those. Those 6 acres cannot be further subdivided until the first go through the discretionary rezoning process. We can't turn down a subdivision on the basis of traffic on a roadway that is at the rezoning stage where the concern would be brought up.

LUWAYNEA LANDRUM: Our road is not a county road. They told us we would have to put in drainage on each side, make it a certain width, put new culverts in and black top it before they would take it over. If I put that much money in it why would have them take it over.

MARK SEIB: What that means is. Once the county takes it over, they take it over for the rest of the time. There are standards that have been set by the County Commissioners and county road superintendent to make sure the road has been put in correctly before they take it over, because it

is not their responsibility to improve that road because that was a private road before. You are entitled to keep doing the keep.

LUWAYNEA LANDRUM: We have been maintaining that road for over 30 years. My main concern was what the Minor Subdivision contained and what could happen with the other six acres.

DAVID RIPPLE: Our response was they cannot further subdivide without rezoning to at least a R1.

LUWAYNEA LANDRUM: But it's not that big of deal to do that?

DAVID RIPPLE: Well, it is discretionary on this board and the county commissioners.

LUWAYNEA LANDRUM: Ok, that's all my questions.

MARK SEIB: Anyone else wishing to speak for or against please come forward. Seeing and hearing none we will close the public portion.

Mr. Seib confirmed with Dave Ripple there were no emails, phone calls, or letters.

Mr. Seib opened the floor to the committee for discussion or action.

Joe Marvel made the motion to approve docket 23-10-S-APC. Keith Spurgeon seconded the motion. **Roll Call Vote (7-0). Yes. Motion passed.**

Joe Marvel made a motion to give the Executive Director final approval to sign off on once all the documents been filed and finalized after 30 days. Keith Spurgeon seconded. **Roll Call Vote (7-0). Motion passed.**

SITE DEVELOPMENT PLAN:

APPLICANT: Dempson Haney, Hafer Design

OWNER: Posey County Humane Society, Inc.

PREMISES: Beginning at the Northwest corner of the Northwest Quarter of the Southeast Quarter of Section 3, Township 7 South, Range 13 West; thence South 89 degrees 38 minutes 30 seconds East along the North line of said Quarter Quarter for 242.86 feet to a point in the old portion of Indiana State Highway 62; thence South and parallel with the West line of said Quarter Quarter Section for 269.17 feet to a point in the center of Rueger Ditch; thence South 87 degrees 25 minutes 30 seconds West for 243.10 feet to an iron pin on the West line of said Quarter Quarter Section; thence North along the West line of said Quarter Quarter Section for 281.61 feet to the place of beginning, containing 1.535 acres, more or less. More commonly known as 6500 N Leonard Rd, Mt. Vernon, IN 47620 (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 an M-1 Zoning District under The Zoning Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville and Unincorporated Posey County.

Mr. Seib confirmed with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

Mr. Seib confirmed no board members had any conflicts of interest.

MARK SEIB: Who is here to speak on behalf of the application? Please step to the podium and state your name and address. Also give a brief on what you are wanting to do.

DAVID RIPPLE: They have asked to be tabled until the next meeting to address a number of issues. They can address the issues and give us a status update on issues. So, it is tabled unless they have changed their mind.

MARK SEIB: Who is here to speak on behalf of the application? Please step to the podium and state your name and address. Also give a brief on what you are wanting to do.

DEMPPSON HANEY: With Hafer Design, 21 SE 3rd St, Evansville, IN. The existing business there is an animal shelter. They are wanting to build a new facility at the east end of the property. The current building is on the west end of the property. We placed the new building there so they could maintain operations while the new building is built. During our Area Planning Committee Review we had some concerns brought up. We have decided to defer so we can address those issues.

MARK SEIB: You are trying to get answers to your questions to figure out what you are going to do with it?

DEMPPSON HANEY: Correct, they are in dire need of a new facility. We are just trying to do what we can to get a newer and better facility for the animals and their staff.

MIKE BAEHL: I was looking at the legal description and one of the points is in the middle of Rueger Ditch that is not the case. Part of this property was purchased by I think JAS enterprises, which is Hawg N Sauce next door. So, this description is inaccurate. You need to look at that before you go forward.

RON STEINHART: With Hafer Design, 21 SE 3rd Dt. Evansville, IN. That is the information that we received. The survey we received had that on there and we will need to get together with them to get that correct.

MARK SEIB: Any other questions. We will now open the public portion. Is there anyone here wanting to speak for or against.

LUCY STEINHART: With NewLife board of directors, 5414 Stonewood Drive, Mt. Vernon. I'm coordinating the building campaign. I just want to voice that we are very willing and want to do everything we need to do accurately and in the best way possible to create this shelter to best serve Posey County. We just want to keep the communication open. If there are any questions to please come me or our president directly. I know there have been some conversations outside of meetings, that are maybe not conducive to us moving forward.

MARK SEIB: By this board?

LUCY STEINHART: Yes, in the community. I just want to make sure we are very transparent and do the best to serve Posey County in our mission.

MARK SEIB: We will check into it. Anyone else wishing to speak for or against please come forward. Seeing and hearing none we will close the public portion.

Mr. Seib confirmed with Mr. Ripple there were no emails, phone calls, or letters.

DAVID RIPPLE: We have a Site Review committee. They recommended it to be deferred. Which the applicant did send a letter asking for it to be deferred. As I recall there were 3 questions, the most substantial one being the eastern portion of their site is in the 100-year flood plain. Number two was a question raised by Megan Ritterskamp from soil and water relative to the soils at the site with the load bearing. In that case we are waiting on a response from the engineer, whether they are going to remove the soil or design the footing to handle the loading. The third issue is relative to how they would tie in for their sewer service due to it removing some of Old State Road 62. I believe there has been some conversation on that matter. There were some minor things but before we act here, I would like the applicant to give us a status report on those issues. Then tell us if you would like to table it or for the board to act on it.

DEMPSON HANEY: We have been in communication with a civil engineer talking about our options are when it comes to flood plain zoning and what we need to do. What we decide to do with the flood plain will in turn help us decide what will all come out of that with conversation with the civil engineer. For running the sanitary through the newly paved road, at the time when we started the planning process, I don't believe the road had been repaved at that time. Since then, we have talked with water works, I think we have an alternative route that will avoid cutting the road. It is a much longer run but it will avoid cutting the road for the most part.

MARK SEIB: Have you started a conversation with DNR?

DEMPSON HANEY: Not directly. We have only submitted through APC, as part of this.

DAVID RIPPLE: This body will have to receive a letter from DNR.

DEMPSON HANEY: Correct. If we do a LOMR process, we will be establishing communication with DNR to get that reviewed and approved. We would then have to bring that to the Area Planning Committee.

DAVID RIPPLE: I would also note that you could request a variance from the board of zoning appeals. Get a flood plain variance but that also means you have greater exposure to any insurance that you would try to secure.

DEMPSON HANEY: I just want to bring up the flood plain issue, we had looked into that in the process. When we went to Posey County GIS it didn't show our site in a flood plain and then when we referenced FEMA their maps also didn't show it in a flood plain. It wasn't until we submitted to Area Planning that we were brought to light that there was a three-flood plain map from the DNR that did show us in a flood plain. It was an honest mistake. In the future we will look at three different flood plain maps.

DAVID RIPPLE: Do you still want this deferred?

DEMPSON HANEY: Yes, I don't think anyone is going to approve a project that is sitting in a flood plain without the proper certification and drawings.

JOE MARVEL: The Site Plan Committee said we just wanted to hold this until they address this. I don't know how this affects our 90 days. The paper already had the legal, so we thought we had to bring it here instead of letting it sit for a while.

Mike Baehl made motion to table until January 11, 2024, meeting. Stefani Miller seconded. **Roll Call Vote (7-0).**

COMPLAINTS – TABLED:

236 S. Maple Street, Mt. Vernon (Spray)
319 W. 8th Street, Mt. Vernon (Stillwagoner)
324 W. 7th Street, Mt. Vernon (Schneider)
1002 E. Sycamore Street, Mt. Vernon (Berry-Ridley)
428 S. Stierley Road, Wadesville (English)

MARK SEIB: Next up are the complaints which were tabled last meeting, we have two of them here. Our first 236 S. Maple Street, Mt. Vernon (Spray).

TRENT VAN HAAFTEN: This is Robert Spray, notice was sent to Mr. Spray and we ended up filing an ordinance violation. He showed up at court for our hearing and had a good discussion. He has made some changes. He is over here occasionally, he is caring for a father, so he is in Illinois a lot with him. There was a truck bed camper sitting on the property. One of the allegations was there was an electrical cord running to it and they believed someone was living in it.

ROBERT SPRAY: 236 South Maple Street. How can I resolve this? It's just a truck bed camper sitting beside a mobile home being used for dry storage. I was going to renovate. No one is living in it. No one is really at the property very often. I'm going back and forth to Illinois like Mr. Van Haaften said. I have been doing that since August.

JOE MARVEL: They saw the extension cord running to it.

ROBERT SPRAY: I keep a fan running in there all the time to keep it from molding.

TRENT VAN HAAFTEN: Was there something else on the property that you thought the original complaint was about.

ROBERT SPRAY: The original complaint I was getting was about an RV that I was also attempting to renovate so I just moved that along to someone else. I was still getting the complaints, but it isn't an RV, so I assumed it was a mistake. A truck bed camper is not classified as an RV, you can't pull it you can't title it, so I assumed there was just a miss communication.

DAVID RIPPLE: Where is the truck bed camper?

ROBERT SPRAY: It's in the side yard adjacent to an alley.

TRENT VANHAAFTEN: What has been our practice, when an individual has been contacted and doesn't show up at the meeting, we file an ordinance violation because that ends up getting folks into court. When they do appear and what the initial hearing practice has been is to find out if it has been resolved and then also say they need to address the board. I told Mr. Spray he needed to be here this evening. The original complaint and what the ordinance violation was filed on was recreational vehicle being used for living quarters. We have a truck bed sitting there, I'm not sure with his explanation is not being used as a living quarters. My question would be is the board satisfied that the complaint has been addressed. If so, I will dismiss the ordinance violation. If you feel like you need to keep pursuing the ordinance violation, we can do that, but I don't think the truck bed classifies as a recreational vehicle that is being used for living quarters.

KEITH SPURGEON: You are not living there, no one is living there?

ROBERT SPRAY: No, maybe twice a week I visit over here. It's not in the greatest part of Mt. Vernon so I just check and make sure no one is messing around. I have great neighbors that I'm sure would call if someone was, but I just like to check myself.

KEITH SPURGEON: When you come over, you stay in the trailer?

ROBERT SPRAY: If I was to stay the night I would stay in the mobile home, yes.

Joe Marvel made a motion to dismiss complaint. Seconded by Stefani Miller. **Roll Call Vote (7-0). Motion passed.**

MARK SEIB: Next item we have tabled is 319 W. 8th Street, Mt. Vernon (Stillwagoner).

TRENT VAN HAAFTEN: That was another one that the individual was given letter and hasn't appeared before the board. I was instructed to file an ordinance violation and I have done so, the initial hearing is January 22. Assuming she shows up in court I will do the same thing, to see if she wishes to come before you and address this and we will go from there.

MARK SEIB: Is anyone here wishing to speak on the complaint? Seeing and hearing none. Trent is moving forward on it. Moving on, we have 324 W. 7th Street, Mt. Vernon (Schneider).

TRENT VAN HAAFTEN: That one was tabled, the office staff will have to address that. That was the two houses that are close together, the fence was put up between them.

DAVID RIPPLE: The communication that we have was on November 14th. The property owner that is being complained about said Greg Kissel was to do a survey. She had called him two weeks ago, this is coming from the 14th of November, she was told that he was about two weeks out from completing his survey he think he should be coming out anytime to get the survey. She said that if she hadn't heard from him this week she plans to call and find out when he is coming out, will do a plot plan after they do a survey. Haven't heard anything since.

MARK SEIB: Is there anyone here wishing to speak on the 324 W. 7th Street, Mt. Vernon? Seeing none, committee?

Joe Marvel made a motion to table complaint. Seconded by Greg Newman. **Roll Call Vote (7-0). Motion passed.**

MARK SEIB: Next thing we have is 1002 E. Sycamore Street, Mt. Vernon (Berry-Ridley).

TRENT VAN HAAFTEN: This is one that was tabled also. Staff mentioned at the last meeting that there had been contact from the person living there, they needed time to address the issue.

DAVID RIPPLE: I have nothing from the applicant.

MARK SEIB: There anyone here wishing to speak about 1002 E. Sycamore Street, Mt. Vernon? Hearing and seeing none. What is the pleasure of the board?

JOE MARVEL: Is this for expired plates? It looks like they are parked on gravel to me.

DAVID RIPPLE: Let's read the complaints. Vehicle parked in the front yard of the address. The vehicle has been sitting in the same place for over three years. They haven't given us a further update on how they are going to address it since October 26th, Tamra Cox who owns the car said she needs time.

Joe Marvel made a motion for Trent Van Haaften to send letter to the owner. Seconded by Andy Hoehn. **Roll Call Vote (7-0). Motion Passed.**

MARK SEIB: 428 S. Stierley Road, Wadesville (English).

TRENT VAN HAAFTEN: This is the fence made with telephone poles. The last meeting, I stated that I would be getting something together and get that to the English's, that has not been done and that is on me. I know they have been in communication with the office. There are new photographs. I have talked to Dave about this. This is in Ag district a fence anything constructed

or erected with a fixed location on the ground or attached to something having a fixed location on the ground and includes building, walks, fences and signs. That is the definition of a structure. We then go to the Ag district language. Which talks about nothing contained in these regulations for Ag district or the zoning ordinance shall impose restrictions respect to land use or to be used for agricultural purposes, to be used for agricultural purposes or with the erection or maintenance, repair, alteration, remodeling, extension of buildings or structures to be used for agricultural purposes except that buildings and structures shall conform to building setback lines. The nature of the complaint and we see the pictures and what has been explained to you is what is represented as a fence. The question at the last meeting was since it is in an Ag district, fences aren't regulated. The ordinance is a fence intended to be used for agricultural purposes. So, I think that is a critical piece of information the board needs to consider. I think the question of whether this is a fence for agricultural purposes needs to be satisfied in your mind. If it is, the discussion Dave and I have had is anything a fence or is the ordinance going to require steps to be taken in order to be consistent in what we are calling a fence in an Agricultural district? There are some updated photographs provided by the English's. It looks like they have brought the height down. In terms of addressing this, you need to find out what the purpose of the fence is, if it's agricultural purposes. The second thing is if it is you need to decide if you are going to allow this type of fence. That is what is before you today.

MARK SEIB: Does anyone have any questions for Dave or Trent? Please state your name and address.

KYLER ENGLISH: 428 S. Stierley Road. Technically it's not only being used as a fence, I have built it also for a retaining wall.

MARK SEIB: Is this fence being used for any agricultural purpose?

KYLER ENGLISH: Yes, I'm zoned Ag. Technically with the deal that is going on with the pond I'm also limited on my Ag ground. I have animals and gardening. I'm going to use the Ag ground; I'm going to do something with it.

TRENT VAN HAAFTEN: Do you have cattle or cows?

KYLER ENGLISH: No, not yet.

DAVID RIPPLE: What are you enclosing that is agricultural?

MARK SEIB: Why is the fence being built?

KYLER ENGLISH: It's not a fence, it's a retaining wall.

MARK SEIB: You do not understand what Trent is saying. In order to put that in an agricultural zoned area you have to use it for Ag use.

KYLER ENGLISH: I do have animals. I plan on getting cattle and pigs. I have goats now.

MARK SEIB: You are planning on having big livestock on that property?

ANDY HOEHN: Looking at the fence before, this is an upgrade, and I really don't have a problem with it. I did drive out to the property, and you can see where there is gardening being done. I'm not sure if the fence is completed to be around the property. Next to gardening it would still fit in the agricultural use. I'm not sure if this is completed and I'm assuming if it goes larger and goes to the front yard it would be a wire fence. Looking at this it is below the six feet requirement. I don't see a problem with this. I think they have addressed the issue.

STEFANI MILLER: I also drove past to get a visual. I agree with Andy, I don't have a problem with it.

TRENT VAN HAAFTEN: If you go and get cattle or pigs or whatever. Will they be placed where this fence will prevent them from roaming free?

KYLER ENGLISH: Yes.

MARK SEIB: What is the height of the fence?

KYLER ENGLISH: Is there a regulation on the height of the fence?

DAVID RIPPLE: Six feet from whatever the ground level is.

ANDY HOEHN: The measuring tape shows they are in compliance.

MARK SEIB: As long as that fence is six feet from the ground and no higher, I think it meets the height requirement.

DAVID RIPPLE: The last question is about the material; my comment would be we don't specify what is an appropriate fence in agriculture area.

MARK SEIB: Is there anyone else here wishing to speak about 428 S. Stierley Road? Hearing and seeing none.

Joe Marvel made a motion to close the complaint. Seconded by Andy Hoehn. **Roll Call Vote (7-0). Motion Passed.**

COMPLAINTS – NEW:

6201 Cheshire Dr, Mt. Vernon (Utley)
1733 Pleasant Valley Dr, Mt. Vernon (Vickers)

MARK SEIB: We have two new complaints 6201 Cheshire Dr, Mt. Vernon (Utley).

DAVID RIPPLE: This is an instance a storage unit was placed on an abutting property under the same ownership but on a separate lot. Mr. Utley has now applied for a Special Use

application for the storage shed. He is trying to make it right. He has taken action to get the appropriate permits.

Greg Newman makes motion to table it to the February Board meeting. Seconded by Stefani Miller. **Roll Call Vote (7-0). Motion Passed.**

MARK SEIB: 1733 Pleasant Valley Dr, Mt. Vernon (Vickers) new complaint.

DAVID RIPPLE: The issue here is the camper, and someone might be living in it. I have a note here that Janeane called who owns the camper said that the camper is moved to the side drive, and no one was ever living in it.

JOE MARVEL: There is still a cord to it.

MARK SEIB: It could just be to maintain it for the winter. Is there anyone here wanting to speak about the complaint. What does the board feel? The pushouts aren't out anymore.

Joe Marvel made a motion to close the complaint. Seconded by Greg Newman. **Roll Call Vote (7-0). Motion Passed.**

DIRECTOR'S REPORT

David Ripple addressed the board regarding an amendment for board members to review how to handle corner lot Variances.

OTHER BUSINESS

Barry Tanner – Solar Contract Renewal

Joe Marvel made a motion to approve the new revised contract for Barry Tanner. Seconded by Mike Baehl. **Roll Call Vote (7-0). Motion Passed.**

APPROVE 2024 MEETING DATES

Joe Marvel made a motion, seconded by Keith Spurgeon to leave the time of the monthly meeting at 6:00 p.m. on the second Thursday of each month. **Roll Call Vote (7-0) Yes. Motion carried.**

Joe Marvel made a motion and seconded by Keith Spurgeon to leave the time of the monthly filing deadline at end of day on the second Thursday of each month. **Roll Call Vote (8-0) Yes. Motion carried.**

DISCUSS PROCESS OF 2024 MINUTES

Joe Marvel made a motion to start abbreviating minutes starting January 2024. Seconded by Stefani Miller. **Roll Call Vote (8-0) Yes. Motion carried.**

APPROVAL OF PAYROLL AND BILLS

Joe Marvel made a motion to approve payroll and bills, seconded by Mike Baehl. **Motion carried.**

REPORT OF COLLECTIONS

Joe Marvel made a motion to approve payroll and bills, seconded by Greg Newman. **Motion carried.**

CITIZEN CONCERNS

None

GREG NEWMAN: I would like an update on the Comprehensive Plan.

MARK SEIB: The committee met for the last time. We have an updated map to review. They are now looking for two locations, one in Poseyville and one in Mount Vernon for open houses. They will be in attendance, the Committee will be in attendance, those that can to answer any questions the public may have. With that being said I'm hoping it could be for the January meeting. I am willing to make a special meeting to adopt it to start moving toward the ordinances.

GREG NEWMAN: How do you think it will take to update the ordinances.

MARK SEIB: We have two people that are applying to help us with the ordinance. I think we want to take a look at the structure of the ordinances to make sure the language is somewhat not so legal, but more public so they can understand it. We also want to address the numbering so if we make changes, it's an easy fix. The Committee needs to make the decision on how often they want to meet. Once we start 3 months before coming to this board and then it will have to go out to the County, City and Towns for their adoption as well.

GREG NEWMAN: I just want to make sure the ball is moving. I know the Commissioners and the County Council are very interested in this as well.

MARK SEIB: I will tell you that we have two very qualified individuals that want to help us. I think we have the ball going. Of course, it will go out for bids and I have been talking to the council about it. In January I will ask the board to vote on starting the bids.

KEITH SPURGEON: Will there be virtual open houses?

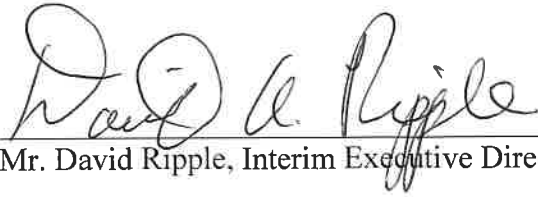
MARK SEIB: Yes.

ADJOURNMENT

Mike Baehl made a motion to adjourn at 8:24 PM, seconded by Joe Marvel.

A handwritten signature in cursive script, reading "Mark A. Seib".

Mr. Mark Seib – President

A handwritten signature in cursive script, reading "David A. Ripple".

Mr. David Ripple, Interim Executive Director