

**Minutes of the Eighteenth Regular or Special Meeting
For the Twenty-Ninth Highland Town Council
Special Meeting (electronic)
Monday, August 31, 2020**

The Twenty-Ninth Town Council of the Town of Highland, Lake County, Indiana met in a special session on Monday, August 31, 2020 at 6:30 O'clock P.M. in the regular place, the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

This meeting was convened as an *electronic meeting*, pursuant to Governor Holcomb's Executive Order 20-04 and 20-09, an extended by Executive Order 20-41, allowing such meetings pursuant to IC 5-14-1.5-3.6 for the duration of the COVID-19 public health emergency. All persons met remotely on a Zoom platform that allowed for real time interaction, and supported the public's ability to observe and record the proceedings. When an agenda item provided for public comment, this was supported as well. Councilor Herak, while not required under the Governor's orders, was present on the premises of the plenary meeting room.

Councilor Mark Herak led the pledge of allegiance to the Flag of the United States of America.

Silent Roll Call: Councilors Mark Herak, Mark Schocke, Thomas Black and Roger Sheeman were present. Councilor Bernie Zemen was absent. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

The Town Council President asked for a formal roll call. Upon the formal roll call, the disposition of the quorum and the attendance was confirmed and unchanged.

Officials Present: William R. Timmer, CFOD, Fire Chief; Kathy DeGuilio-Fox, Redevelopment Director; Kenneth J. Mika, Building Commissioner; and Peter Hojnicky, Police Chief were also present for part of the meeting.

Additional Officials Present: Larry Kondrat, Richard Volbrecht, and Ed Dabrowski (also IT Consultant) of the Board of Waterworks Directors; Liz Breslin of the Community Events Commission; Mario Martini, Joe Grzyski, James Kisse of the Plan Commission; and Renee Reinhart and Jack Havlin newly of the Redevelopment Commission, were also present.

Guests: Robin Carlascio of the Idea Factory; Dan Dernulc, Lake County Councilor and Chairman of the Lake County Republican Central Committee were also present.

Special Orders:

1. Ratify the calling of a special meeting for Monday, August 31, 2020, pursuant to HMC Section 2.05.130(A) (4) and .Section 2.05.130(F).

Councilor Zemen moved to ratify the special meeting. Councilor Sheeman seconded. Upon a roll call vote, there were four affirmatives and one negative. With Councilors Zemen, Herak, Black, Sheeman voting in the affirmative and Councilor Schocke voting in the negative, the motion passed. The meeting was ratified, pursuant to HMC Section 2.05.130(A) (4) and .Section 2.05.130(F) and IC 36-1-4-16.

Comments from the Town Council President. The Town Council President, with leave from the Town Council, read aloud prepared remarks summarizing his objections to the meeting, alleging it was convened illegally, and further stressing that he did not support its convening. The Town Council President then presented a PowerPoint presentation regarding the Scheeringa family and its current business operated near the proposed development. The Town Council President then vacated the chair, to exhibit his disavowal of the meeting and to allow his making of motions.

The Town Council Vice President, Bernie Zemen, assumed the chair as acting President.

The Town Council President then stated that he was filing his remarks for inclusion in the record of the proceedings. Councilor Herak objected and no further action by the Town Council was taken to authorize the incorporation.

Comments from Public or Visitors:

It was noted that the public hearing had occurred before the Plan Commission. However, the Town Council would receive public comments regarding the favorable recommendation for the rezoning from its current R1-A District to R3 Planned Unit Development District.

1. Laura Carpenter, Highland, spoke in opposition to the rezoning and the petitioner's project.
2. Jack Havlin, Highland, spoke in opposition to the rezoning and the petitioner's project.
3. Gina Miller, Highland, spoke in opposition to the rezoning and the petitioner's project.
4. Terry Fuqua, Highland, spoke in opposition to using public money as an incentive for private investment.
5. Noah Ostrum, Highland, spoke in opposition to the rezoning and the petitioner's project.
6. Linda Berg, Highland, spoke in opposition to the rezoning and the petitioner's project.
7. David _____, Highland, spoke in opposition to the project.
8. Marilee Popovich, Highland, spoke in opposition to public financial support for a private development.
9. Joseph Grzynski, Highland, noted he was a member of the Plan Commission and he spoke in support of the rezoning. Mr. Grzynski further clarified that the farm stand was not affected by the proposed development.
10. Margie Hoffman, Highland asked about the rationale for financial support for the proposed development.
11. Joe Scheeringa, Highland questioned the rationale for financial support for the proposed development.
12. Janet Szymanski, Highland, questioned the public financial support for a developer asking about the "return".

There was a colloquy among and between some of the public regarding the use of the property that is former site of Ultra Foods located on Indianapolis Boulevard.

13. Jim Kisse, Highland, noting he was a plan commission member, spoke in support of the rezoning and offered some of the reasons for the plan commission's vote to favorably recommend the rezoning.
14. Jenelle Scheeringa, _____, spoke in opposition to the rezoning and the petitioner's project. She also stated spoke about the recent sale of an asset that

would allow for the Scheeringa's to purchase the property that is the subject of the development.

15. Terry Fuqua, Highland, wished to pose a question to Councilor Herak, who declined.
16. Brittany Rutledge, Highland, asked about the impact on the watershed and drainage generally and the effect on Kleinman Road property.
17. Rick Volbrecht, Highland, referenced the referendum and its proportion to the votes by the Park Board and the Highland Town Council, noting that the unanimous vote of the plan commission should not have undue weight.
18. Jim Spence, Highland, supported the Town Council granting Scheeringa the opportunity to purchase the property.
19. Audrey _____, Griffith, spoke in favor of allowing the Scheeringa's the opportunity to purchase the property.
20. Joe Scheeringa, Highland expressed opposition to financial support for the proposed development. He noted that he did not get financial support for his sewer.
21. Tracy Opera, Highland, spoke against the development.
22. Jack Havlin, Highland, stated that he believed that the Scheeringa's had an understanding had a right to purchase.
23. Harvey Crouch, Highland, commented on the attempts to improve the former Town Theater and the expansion of the Lincoln Community Center, and urged the leaders to keep taxes low.
24. Judy Anderson, Highland expressed her belief regarding the legality of the meeting and her support for Scheeringa Farms.
25. Mary Hackett, Highland, expressed concerns about the process of rezoning.
26. Rob McKensie, Highland, believed that issues were being considered too quickly.
27. Frank Kelvitis, Highland, not a resident of Highland, noted that he served on the Lake County Plan Commission and the Board of Zoning Appeals. He opined that the meeting was not properly advertised and spoke in opposition to the development.
28. Amy Lambert, Highland, asked for a referendum and opposed the project.
29. Abigail Hyatt, Highland, supported the farm remaining Scheeringa's.
30. Laura Carpenter, Highland, expressed concerns about the viability of the proposed senior facility.
31. Margie Hoffman, Highland, questioned the benefit of the Town proffering any financial incentive.
32. Harvey Crouch, Highland, asked whether that the matter is settled. He further suggested that if the Scheeringa's could buy the property, that should occur.
33. James L. Wieser, Attorney for the petitioner/developer reviewed the number of opportunities that the public had to comment, both at a neighborhood meeting, and

at the plan commission level. He reviewed the legal requirements for the process of rezoning.

Mr. Wieser further indicated that no tax abate was being sought or offered. He further stated that the developer would be paying for its sewers.

Marge Hoffman sought clarification regarding whether there was public support for the water, sewer and sanitary. It was noted that no public money for these. There would be public allocation area funds to support the improvement to Ernie Strack drive as a fully improved public road.

Councilor Schocke objected to Mr. Wieser being able to speak more than 2 minutes.

34. Frank Kalvanis, Highland, asked about the drainage and renewed his challenge to the validity of the notice.
35. Ann Bellwinkle, _____, shared concerns regarding the process.
36. Terry Fuqua, Highland, opined on the uses of allocation areas.
37. Bob Toth, Highland, asked about the benefits of the development to the people of Highland.
38. Susan Billenda, Griffith, opposed the development.
39. Ryan Kirby, Highland, opposed the stopping the Scheeringa's from an opportunity to purchase the farm.
40. Megan Zyglowicz, Highland, noted that perhaps there were better places for the development on properties that are owned by the Town. Opposed the taking of the farm.
41. Xander Ison, _____, spoke in favor of the Scheeringa Farm.
42. Julie Stivers, Highland, opposed the rezoning and favored the farm.
43. Patty Topp, Highland, spoke in opposition to the rezoning and the petitioner's project.
44. Barb Berones, Highland, spoke in opposition to the rezoning and the petitioner's project. She supported the farm.
45. David _____, spoke in opposition to the rezoning and the petitioner's project.
46. Laura Tusk, Highland, spoke in opposition to the rezoning and the petitioner's project. She supported the farm.
47. Larry Kondrat, Highland, spoke in opposition to the rezoning and the petitioner's project.
48. Jim Courtright, New York City, spoke in opposition to the rezoning and the petitioner's project. She supported the farm.
49. Jim Rauer, Highland, spoke in opposition to the rezoning and the petitioner's project. He also inquired about the nature of the infrastructure support.
50. Brittany Rutledge, Highland, asked about the location of any retention pond.

51. Ben Tomera, Highland, spoke in opposition to the rezoning and the petitioner's project.
 52. Marilee Popovich suggested that the plans be placed on the Town's website.
 53. Kathy Nemeth, Highland, spoke in opposition to the rezoning and the petitioner's project.
 54. Mary Hoffman, inquired about the next steps and outlined her understanding of the way that the meeting would go forward.
 55. Zoie Ison, _____, opposed the project and thanked the people who spoke in favor of the Scheeringa's farm.
 56. Harvey Crouch, Highland, urged the Town council to vote the matter down.
 57. Terry Fuqua, further inquired about the rationale of improving the road for Strack, opining that it was doing nothing for the benefit.
 58. Gina Miller, Highland suggested that the matter be delayed allowing further consideration.
 59. James McCarthy, Highland inquired about abatements. It was noted earlier that not abatements are being sought or being granted for this project.
 60. Janelle Scheeringa, sought further clarification regarding the process.
 61. Connie Barrett, Highland spoke in opposition to the rezoning and the petitioner's project. She supported the farm.
 62. Elijah Aurand, Highland, opposed any financial incentive for the developer.
 63. Ann Bellwinkle, Highland, asked whether rezoning would reprice the farm land and created an added financial hurdle for the Scheeringa to buy the land.
 64. Margie Grimmer, restated her opposition to the rezoning and the project.
 65. Jenny Scheeringa, Highland, thanked all of those who spoke in support of the farm.
 66. Larry Kondrat, Highland, dilated upon his understanding of allocation areas, their ways and means.
2. **Plan Commission Docket No. 2020-01:** Petitioner is seeking an amendment to the *zoning map* involving property located between Kleinman Avenue and Cline Avenue, commonly known as the Scheeringa Farm. The subject property is currently zoned R-1A Single Family (Large Lot) Residential District and petitioner seeks rezoning to R-3 PUD Planned Unit Development District, designation.

Petitioner: SJ Highland, LLC/Russell Group, by its counsel, James L. Wieser, Wieser & Wyllie, LLP. The Municipal Plan Commission determined a **favorable recommendation**, by a vote of six (6) in favor, none opposed at its meeting July 15, 2020. The Plan Commission's *findings of fact* were memorialized from the July 15, 2020 hearing and were officially adopted at its meeting of August 19, 2020. The *matter was certified to the Town Council for its consideration and action*, received in the Office of the Town Clerk-Treasurer, August 20, 2020.

IC 36-7-4-608 (e) states that the legislative body **shall** vote on the proposal within 90 days after the plan commission certifies the proposal. Coming with a *favorable recommendation*, IC 36-7-4-608 (f) further provides that at the **first regular meeting of the legislative body after the proposal is certified or**

at any subsequent meeting within the 90 day period, the legislative body may either adopt or reject the proposal.

Actions. Pursuant to IC 36-7-4-608 (f), having received a favorable recommendation, the Town Council may either **approve** the recommendation and adopt the ordinance or **reject** the recommendation, and defeat the ordinance. If no action occurs within 90 days, the recommendation of the Plan Commission is adopted. **90 days tolls on November 17, 2020.**

Note: As an ordinance to amend the zoning code, IC 36-5-2-9.8 (b)(1) states the usual rules for considering an ordinance on the same night of introduction do **not** apply.

- **Ordinance No. 1720:** An Ordinance Amending the Zoning Map of the Comprehensive Zoning Ordinance Passed by the Town Council of the Town of Highland, Lake County, Indiana, on the 9th day of October 2017, by Ordinance No. 1659 and Codified as Title 18 of the Municipal Code to be Effective on the date of adoption; and hereinafter reclassifying an area in the Town of Highland, Lake County, Indiana from an R-1A Single Family Residential District to a R-3-PUD District.

Motion One. Councilor Schocke moved to reject the favorable recommendation and not pass the ordinance. Councilor Black seconded. Upon a roll call vote, there were three negatives and two affirmatives. With Councilors Zemen, Sheeman and Herak voting in the negative and Councilors Black and Schocke voting in the affirmative, the motion did not pass. The favorable recommendation was not rejected.

Motion Two. Councilor Herak moved to approve the favorable recommendation of the plan commission and adopt the rezoning ordinance. Councilor Sheeman seconded.

Motion to amend. Prior to the roll call, Councilor Schocke moved to amend the pending motion by adding to it that the favorable approval be contingent upon no expenditure of public funds of the redevelopment department or the town to support the project. The motion did not attain a second.

Motion to amend. Councilor Schocke moved to amend the pending motion by adding to it that the favorable approval be contingent upon no exercise of eminent domain to obtain property or resources to support the project. The motion did not attain a second.

Motion to amend. Councilor Schocke moved to amend the pending motion by adding to it that the favorable approval be contingent upon no public resources or public labor be employed to assist the developer or to support the project. The motion did not attain a second.

Roll call on Motion Two. The Acting President then directed the Clerk-Treasurer to conduct the roll call on the pending motion. Upon a roll call vote, there were three affirmatives and two negatives. With Councilors Zemen, Herak and Sheeman voting in the affirmative and Councilors Black and Schocke voting in the negative, the motion passed. The favorable recommendation was approved and the rezoning ordinance was adopted.

ORDINANCE NO. 1720
of the
TOWN OF HIGHLAND, INDIANA

An Ordinance Amending the Zoning Map of the Comprehensive Zoning Ordinance Passed by the Town Council of the Town of Highland, Lake County, Indiana, on the 9th day of October 2017, by Ordinance No. 1659 and Codified as Title 18 of the Municipal Code to be Effective on the date of adoption; and hereinafter reclassifying an area in the Town of Highland, Lake County, Indiana from an R-1A Single Family Residential District to a R-3-PUD District.

WHEREAS, The Town Council of the Town of Highland, Indiana, did on the 9th day of October 2017, pass a certain replacement zoning ordinance which is now in full force and effect, and which is known as Ordinance No. 1659, together with all amendments thereof and supplements thereto and codified as Title 18 of the Highland Municipal Code; and

WHEREAS, A petition and application for said proposed amendment was presented to the Highland Plan Commission by the Petitioner and a public hearing was held thereon according to said Ordinance 1659, together with all amendments thereof and supplements thereto and codified as Title 18 of the Highland Municipal Code, and said Plan Commission recommends **favorable approval**; and

WHEREAS, After due consideration and study, the Town Council of the Town of Highland, does believe that the amendment will be advantageous to said Town and will insure the public health, safety, welfare, and morals of the Citizens thereof in the area affected,

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

Section 1. That the following described property situated in the Town of Highland, Lake County, Indiana, which is presently designated as being **R-1A Single Family Large Lot Residential District** is hereby rezoned to rezoned to **R3-PUD Residential Planned Unit Development District**, which area is more particularly described as follows:

Parcel No. 1

That part of the West half of the North Half of the Southeast Quarter of the Southeast Quarter of Section 27, Township 36, Range 9 West of the 2nd Principal Meridian, in Lake County, Indiana, described as follows:

Beginning at the Northwest corner of the said West Half; thence South 89 degrees 41 minutes 54 seconds East along the North line of said West Half, 663.99 feet to the Northeast Corner of the said West Half; thence South 00 degrees 03 minutes 14 seconds East along the East line of the said West Half to a point 24.00 feet North of the Southeast Corner of the said West Half;

thence North 89 degrees 43 minutes 08 seconds West parallel with and 24.00 feet North of the South line of the said West Half, 663.23 feet to a point on the West line of the said West Half, said point being 24.00 feet North of the Southwest Corner of the said West Half; thence North 00 degrees 06 minutes 28 seconds West along the West line of the said West Half, 637.02 feet to the Point of Beginning.

Parcel No. 2

hat part of the West Half of the North Half of the Southeast Quarter of the Southeast Quarter of Section 27, Township 36, Range 9 West of the 2nd Principal Meridian, in Lake County, Indiana, described as follows:

Beginning at the Southwest corner of the said West Half; thence North 00 degrees 06 minutes 28 seconds West along the East line of said West Half, 24.00 feet; thence South 89 degrees 43 minutes 08 seconds East parallel with and 24.00 feet North of the South line of the said West Half, 663.23 feet to a point on the East line of the said West Half, said point being 24.00 feet North of the Southeast Corner of the said West Half; thence South 00 degrees 03 minutes 14 seconds East along the East line of the said West Half, 24.00 feet to the Southeast corner of the said West Half; thence North 89 degrees 43 minutes 08 seconds West along the South line of the said West Half, 633.37 feet to the Point of Beginning.

More commonly known as the Scheeringa Farm, Highland, IN.

Section 2. That the Zoning Map, which accompanies the Comprehensive Zoning Ordinance and which is part thereof, shall be amended and changed so as to include the "R-3-PUD" Planned Unit Development District on the specific parcels of the real estate hereinabove described, all of which was formerly "R-1A" Single Family Large Lot Residential District, and henceforth whose plan, regulations and rules governing the "B-PUD" General Business Planned Unit Development District shall apply to the specific parcel of real estate hereinabove described, respectively;

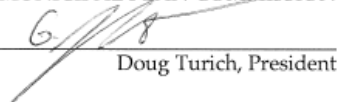
Section 3. That the Town Engineer is hereby ordered to make appropriate map change and that said Ordinance No. 1659 together with all amendments thereof and supplements thereto is, codified as Title 18 of the Highland Municipal Code, and the same is hereby further amended accordingly;

Section 4. That an emergency exists for the immediate taking effect of this amendment, and that the same shall be in full force and effect from and after its passage and adoption.

Certificate of the Municipal Plan Commission

It is hereby certified that the foregoing proposed rezoning amendment was considered at a regular ~~or special~~ meeting by the Highland Municipal Plan Commission, and said rezoning request, having first passed by a vote **6** in favor, and **0** opposed, for a favorable recommendation, is now duly forwarded by a vote of 7 affirmatives and 0 negatives, with a favorable recommendation, for adoption to the Town Council of the Town of Highland by the Highland Municipal Plan Commission on the 19th day of August 2020, pursuant to IC 36-7-4-605(a)(3).

TOWN OF HIGHLAND
MUNICIPAL PLAN COMMISSION



Doug Turich, President

Attest:



Mark Kendra, Secretary

Approval by Legislative Body

Having received the forgoing recommendation of the municipal plan commission pursuant to the duty set forth in IC 36-7-4-605(d), and pursuant to the provisions of IC 36-7-4-608(e), and IC 36-7-4-608(f) the Town Council considered the favorable recommendation of the municipal plan commission at its meeting of August 31, 2020 being the first regular meeting or a subsequent meeting within ninety days following the certification of the proposal.

Duly Ordained and Adopted/Rejected, pursuant to the provisions of IC 36-5-2-9.8 (b)(1) by the Town Council of the Town of Highland, Lake County, Indiana, this 31st day of August 2020, having passed by a vote of 3 in favor and 2 opposed.


TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Mark J. Schocke, President (IC 36-5-2-10)

Attest:



Bernie Zeman, Acting President

Michael W. Griffin, IAMC/MMC/CPFA/ACPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5; IC 36-5-2-10.2)



Adjournment. There being no further business for the special meeting, Councilor Black moved to adjourn. Councilor Herak seconded. Upon a roll call vote, there were four affirmatives and one negative. With Councilors Zemen, Herak, Black and Sheeman voting in the affirmative and Councilor Schocke voting in the negative, the motion to adjourn passed. The Special meeting of the Town Council of Monday, August 31, 2020 was adjourned at 9:26 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA/ACPFIM/CMO
Clerk-Treasurer

Approved by the Town Council at its meeting of _____,
2020.

Michael W. Griffin, IAMC/MMC/CPFA/ACPFIM/CMO
Clerk-Treasurer