

HIGHLAND PLAN COMMISSION

Minutes of the Meeting of
Wednesday, December 20, 2017

The Highland Plan Commission met in regular session on December 20, 2017 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland, Indiana. The Pledge of Allegiance was led by Commissioner Vander Woude. The meeting opened at 7:00 P.M. led by Commissioner Schocke.

ROLL CALL: Present on roll call: Commissioners' Mario Martini, Mark Schocke, Joe Grzymiski, Tom Vander Woude and Bernie Zemen. Commissioner Turich arrived at 7:10 P.M. Absent: Commissioner Kendra. Also present: Ken Mika, Building Commissioner, Attorney Jared Tauber and John Phipps, Plan Commission Engineer, Nies Engineering.

MINUTES: Commissioner Schocke asked if there were any deletions, additions or corrections to the minutes of the November 15, 2017 regular meeting. Hearing none they were approved as posted.

ANNOUNCEMENTS: The next study session will be held on January 3, 2018 at 6:30 P.M. The next business meeting will be held on January 17, 2018 at 7:00 P.M. There will be a special meeting on January 17, 2018 at 6:00 P.M. to consider an Order Requiring Action Relative to Unsafe Premises at the location of 9135 Southmoor Av., Highland, Indiana.

COMMUNICATION: None.

OLD BUSINESS: Docket # 2017-05 Public Hearing for a one lot subdivision for the purpose of new construction of a 10,640 square foot general retail facility at the location of 3325 45th Street. Petitioner is Zaremba Group LLC, 14600 Detroit Avenue Ste. 1500, Lakewood OH 44107.

Ms. Emily Crouch from the Zaremba Group was present. Also present were Jason Raleigh, AR Engineering, 4664 Campus Dr. Ste. 106, Kalamazoo, MI 49008 and Christian Luciano, GPD Group, 520 S. Main St., Suite 2531, Akron, OH 44311.

Attorney Jared Tauber stated that the proof of publication were in order.

Commissioner Schocke asked if they would highlight the changes on the new drawings. He also stated that he was aware the signage question had been straightened out over the last few days. Mr. Raleigh distributed the site development plans. He stated that there were minor changes. The side setback has been increased to 20 feet and they also had pushed back the parking to allow for 15 feet of buffered landscaping. Commissioner Schocke asked about a restrictor that had been discussed relative to rain discharge into the public sewer. Mr. Raleigh explained a backflow preventer device would be installed in their outlet pipe to address that concern. Mr.

Phipps said he had reviewed the calculations and they were okay. Mr. Mika brought up the right of way is currently asphalt and that this will now be grass and that is also on the drawings. The monument sign location has also been included in the re-submittal. Ms. Crouch clarified that they were not planning on any coming soon sign. Mr. Raleigh spoke regarding the proposed photometric plan. He continued that there would be wall mounted fixtures along the sides of the building and freestanding parking lot lights. Mr. Phipps said that he believed that it was the appropriate level of lighting. Commission Schocke asked about dedication of the right of way on 45th Street and Mr. Mika said that will be on the primary plat. They will have a plat at the January 3, 2018 study session.

Commissioner Schocke opened up the public hearing. Mr. Raleigh continued that the landscaping meets the intentions of the new zoning code. He continued that he did have a question as to if street trees will be required. Mr. Mika said that technically they would be required. They discussed that the parkway would be planted by property owners. And they also discussed what was on the Griffith side of 45th Street. The trees would be in the right of way and they had some concerns regarding salting the street and they might need to use trees that are salt resistant. The parkway is 10 feet and it was noted that there would be trees on the backside of the sidewalk. Commissioner Vander Woude inquired about landscaping around the monument sign. Mr. Mika said that would be addressed as part of the permit process. Commissioner closed the public hearing. Commissioner Vander Woude asked regarding the light fixtures. Mr. Luciano stated that they were fully shielded. Commissioner Vander Woude stated that the light seemed to be pretty blue on the spectrum and asked about the color temperatures. Mr. Luciano stated that Dollar General has one approved lighting engineer so they will submit to them. Commissioner Turich asked for locations that have the same lights. The closest location would be in LaPorte, Indiana. Commissioner Vander Woude commented about the southeast corner of the building seemed bright by the residential area, and that he had a concern. They responded that they could remove one light. They will ask the question of the lighting engineer regarding the color of the light and if there is an alternate light that may not be as harsh. Ms. Crouch said they had a copy of the elevations and Mr. Luciano showed samples of the building materials. Commissioner Schocke asked when the drawings were submitted? Mr. Mika stated that the majority of the plans were submitted about two weeks ago and any questions he had were responded to in a timely manner. Mr. Mika stated that if the Plan Commission wanted to, it could be for both primary and secondary plat approval at the same meeting.

Commissioner Vander Woude motioned to continue the public hearing to the January 17, 2018 meeting. The motion was seconded by Commissioner Grzyski and unanimously passed by a roll call vote of 6 – 0.

Docket # 2017-06 Public Hearing for a revision to the Plan Commission's approved original subdivision site plan and storm water drainage plan. Petitioner is Konnie Kuiper represented by Gary Torrenge, Torrenge Engineering Inc., 907 Ridge Rd., Munster, IN 46321 at the location of 8941 Kleinman Rd. Project known as "8941 Kleinman Road LLC Addition".

Attorney Jared Tauber stated that the proofs of publication were in order.

Mr. Torrenga passed out copies of revised drawing to the Plan Commission. He stated that they had obtained the subdivision approval approximately two years ago. It was substantially built in the Spring of 2017.

Mr. Torrenga said it had been brought to his attention that there were substantial differences from what had been built and what had been in the original plans that had been approved. He continued that he had went to look at the site and that he had conversations with Mr. Mika, Mr. Phipps and Plan Commissioner members. Mr. Torrenga said that they established the sources of the concerns and applied methodologies to make sure that they are not a concern in the future. But in doing so they kept what had been built in place and designed around it to primarily take care of the storm water. He stated that originally, the pond was to be on the south, but parking had been expanded. He continued that there will be a new detention pond in a grassy area on the east side and there will be a retaining wall built on the north side of it. There will also be a 4 foot aluminum fence in a style that is agreeable to the Plan Commission.

Mr. Torrenga explained that currently there is a 52 foot driveway. He said that could be done without removing the drive with pavement markings. The drive will be reduced to 30 feet and mostly on the north side and some on the south side. This would be in line with the established traffic pattern within the site. Mr. Torrenga addressed the photometric plan and handed out photos of the adjacent single family home and how the lighting was not affecting their property.

He continued that the detention was completely recalculated so it could be in the place where they have it now. There was a question about what would happen about a 100 year overflow. In that event, the water would go east and down an existing street and then continue south down another street. Mr. Torrenga concluded his presentation and asked if there were any questions.

Commissioner Schocke asked if the lights were built as they had previously approved and Mr. Phipps stated that in they were in compliance.

Commission Schocke explained his position and that of some of the Commissioners as to whether the new petition should be in compliance with the new zoning ordinance as it was applied for after the new zoning ordinance passage.

Commissioner Turich asked when were the drawings and documents submitted. Mr. Torrenga stated they have passed drawings back and forth between himself, Mr. Mika and Mr. Phipps for months.

Mr. Phipps stated that several items were received and several others were not complete in their submittal. Mr. Phipps said that in respect to landscaping he would need a landscape drawing. He does not have information regarding islands within the parking lot required by the new ordinance. He continued that regarding the photometric plan there were no changes and no excessive spillage and in his opinion it is in compliance. He continued the revised drawing of the entrance way was received today but it had been in discussion for a week and a half. He stated that he had gotten information regarding hard surface lot coverage. Mr. Phipps asked if Mr. Torrenga could supply him the CAD drawing to verify the hard surface coverage at the Plan Commission's request. Mr. Phipps said the drawing shows the aluminum fence that looks like

wrought iron on the drawing. Mr. Mika stated they would be looking for something similar to what Vyto's Pharmacy had installed around their detention pond.

Mr. Torrenga spoke to the issue of a new landscaping plan. He stated that currently there were 219 trees, shrubs and arborvitae in place. He stated that he did not understand the logic of submitting a drawing for a new landscape plan. Commissioner Vander Woude brought up the new ordinance describing specific issues in the new ordinance in respect to parking lots, street trees and other items.

Commissioner Martini brought up the question if there could be some relief from the landscaping ordinance. His view is that it should hold under the previous code. He continued that the major issues were the detention pond and fence and he feels that those have been addressed. He described a personal event he had experienced regarding the safety of the driveway. He continued that he regrets that it had not been built the way it had been approved. Commissioner Vander Woude responded that it was not the role of the Plan Commission to grant relief, he believed that would be something the Board of Zoning Appeals would be involved with through the variance process.

There was discussion between the Commissioners regarding which zoning ordinance should be in use. Attorney Jared Tauber expressed his opinion that he believes the previous ordinance should be the applicable one to use. An example was cited that if a petitioner came in today for additional parking, it would need to comply with the current ordinance. Commissioner Grzymiski commented that he was more concerned about the detention. Commissioner Zemen said he would listen to the advice of their counsel.

Commissioner Schocke brought up the striping and asked if another option would be to build a curb. Mr. Phipps suggested that there were other options such as traffic bumps, large planters, which he did not recommend, directional signage but he continued that striping is widely used or perhaps in pavement reflectors.

There was further discussion about modifications to the driveway. Commissioner Grzymiski suggested building a curb. Commissioners Turich and Zemen agreed. The typical curb height was discussed as being about 5 ½ to 6 inches tall.

Commissioner Schocke opened the public hearing.

Mr. Tom Mathis, 3433 W 900 N, Wheatfield IN was acknowledged. He stated he did have interest in the property at 9007 Kleinman still and said that this is the house where he grew up. He continued that he has a construction background and that this process is going backwards.

The site plan review is to ensure compliance with code and what was originally submitted is nothing like what is there now. He stated that in his business they have to adhere to the blue prints unless there are amendments. He continued that there are so many deviations here it is incredible. He stated that HMC 15.55.050 (C) Drainage of Storm Water Run Off: Policy states that the detention facility shall become part of the permanent subdivision. He submitted a copy

of the site plan dated 02/17/16 and continued that had the detention facility been put in as approved they would not be here tonight. He showed a photo of a 12 foot path of water across the non-permeable surface intersecting with the properties to the south. He showed a photo of gravel put in after the certificate of occupancy was issued and showed a photo of 3-4" of water on the pavement. He entered the photos and DVD(S) of some of the meetings he attended into the record. He continued that no one has talked about violation and enforcement here and he feels that had that approach been taken we would have a remedy for this situation. He brought up HMC Chapter 2.45 Ethics, Codes and Values. He believes that if the Town approves this it would set a precedent, and asked if this is what the Town wants. He continued that Mr. Kuiper is a council member and has been a liaison on Boards. He asked if Mr. Kuiper was bonded. He stated that the Commission had a duty to enforce codes. He brought up that at a prior meeting, Mr. Torrenga had said that the proposed detention pond goes against basic engineering principles to detain water further up the hill. He continued that the bottom of the hill is gone. He stated that parking is also an issue. He stated that lights are shining on to the neighboring properties. He re-stated that this construction is a blatant violation of what had been approved. He said he thought that this would open the door to other developers to do the same thing.

Commissioner Schocke closed the public hearing.

Commissioner Grzymiski asked how putting a curb on the south side of the parking would help with drainage now that the detention is on the north side of the property. Mr. Torrenga said the south side of the parking lot drains to the east. Since there was no option on the south side for a detention pond, they made sure that they had perfectly positive drainage to avoid any run off to the property to the south. This then feeds into a detention pond. Mr. Torrenga said the detention pond would have a flat bottom just like the original plan and drain into the sand hill. It would work the same, just be in a different location.

Mr. Torrenga clarified what he said previously that Mr. Mathis had brought up regarding engineering principles. He stated that the detention pond should be designed to be at the bottom of a hill rather than at the top of a hill but what is necessary is to get the water to the detention pond and then there are other options. In this case, the detention is vertical. The detention pond will still need to be maintained. He also stated that he has designed drainage systems for nearly 45 years.

Commissioner Vander Woude said they were here to evaluate and come up with a potential solution. Commissioner Schocke stated that he did not think the Commission was an enforcing body.

Mr. Mika stated that the building department when they have issues try to work with property owners to reach a solution. He continued that both Jared and Rhett Tauber looked into this issue and did not think there was something that the building department could go after.

Commissioner Schocke re-stated that regarding which zoning ordinance was to be used, it was his opinion that the current zoning ordinance applies in light of the fact that if a different petitioner were to come before the Commission that they would need to comply with the current zoning code.

Commissioner Vander Woude motioned to continue the public hearing to the January 17, 2018 meeting to allow the petitioner to address the comments that were made today. Commissioner Schocke stated specifically the hard surface lot coverage to be reviewed by Mr. Phipps when he received the CAD drawing from Torrenga Engineering. Also, a landscape plan that would be in compliance with the current zoning code and a plan to alter the driveway.

The motion was seconded by Commissioner Grzynski and unanimously passed by a roll call vote of 6 – 0. Commissioner Martini noted that he still feels strongly that since this is a revision his opinion is that the former zoning code applies.

NEW BUSINESS: Docket # 2017-07 Preliminary Hearing in reference to a proposal to amend the Zoning Ordinance Sec. 18.90 Nonconforming Uses & Nonconforming Buildings. Mr. Mika stated on behalf of the Town they are asking the Plan Commission to take into consideration a modification to the zoning code for non-conforming buildings and request a public hearing. He continued that the Town's Attorney should have the language available for the ordinance at the next study session.

Commissioner Zemen motioned to grant the public hearing. The motion was seconded by Commissioner Martini and unanimously passed by a roll call vote of 6 – 0.

BUSINESS FROM THE FLOOR: Mr. Mika also made a suggestion that the Plan Commission note that the Unsafe Building Hearing for the property located at 9135 Southmoor was continued to the January 17, 2018 meeting at 6:00 P.M. This was due to a lack of a quorum.

ADJOURNMENT: There being no further business to come before the Board, Commissioner Martini moved to adjourn. Commissioner Vander Woude seconded the motion and it was unanimously carried by a voice vote. Meeting adjourned at 9:00 P.M.