

The Pendleton Plan Commission met on March 13, 2019 at 7:00 pm at 100 W State Street, Pendleton, Indiana. The meeting was called to order at 7pm. Commission members present were Chair Tim Pritchard, Connie Schultz Heinz, Carol Hanna, Kyle Eichhorn, Cheryl Ramey-Hunt, Brad Ballentine and Mike Romack. A quorum was established.

Representing the Town were Planning and Zoning Administrator Kayla Hassett, Assistant Planning Director Rachel Christenson, Director of Public Works Jeff Barger, Town Attorney Alex Intermill and Planning Clerk Kate Edwards.

Others in attendance are noted on an Attachment.

## **MINUTES**

**February 13, 2019 minutes were not available and tabled until next meeting.**

## **OLD BUSINESS**

### **A. Unified Development Ordinance Update**

Rachel Christenson shared the Unified Development Ordinance (UDO) is a local policy instrument that combines, into one document, zoning and subdivision regulation, along with other desired town regulations such as design guidelines. Google Drive presentation went on to provide the timeline for this which began November 2018 when Planning put out requests for Qualifications. Only one submittal was received. It was awarded to The Planning Workshop. Kayla Hassett did the initial markups of proposed changes. The Planning Workshop provided feedback mid-February and their first monthly report summarizing the project activity and the next steps which included a Steering Committee Meeting #1. Suggested potential Steering Committee members were provided also on Google Drive Presentation. Pritchard gave Christenson permission to contact the suggested Steering Committee members.

### **B. Foster Park Planned Unit Development**

Christenson's Google Drive presentation on this topic included the Timeline of the Fosters Park PUD and the different options for moving forward were reviewed. It was decided to discuss how to move forward at a future meeting.

### **C. Thoroughfare Plan Update**

Christenson's Google Drive presentation on this topic explained that a Thoroughfare Plan is a long-range plan that identifies the location and type of roadway facilities that are needed to meet projected long-term growth within a community.

- Last update was completed in 2006
- Planning Department has a hard-copy on file for review
- The Town is working with Madison County Council of Governments (MCCOG), which is the Anderson Metropolitan Planning Organization (MPO), to discuss the project. MCCOG presented Planning Staff with two proposals; one was data driven and the other was design and policy oriented.

- A breakdown of the design & policy oriented proposal versus data Informed proposal was provided for board review and consideration.
- Staff is moving forward with the data driven proposal. Staff will coordinate The Planning Workshop and the MCCOG as there will be some overlap between projects.

## **NEW BUSINESS**

### **A. PC02132019-01 – Westport Homes – 600 S & N Pendleton Ave – 81 acres Change of Zoning (Agricultural to Single Family)**

Hassett reminded that last month Petition PC02132019-01 was introduced and reviewed and tabled until this meeting. Since that meeting, on March 7<sup>th</sup>, there was a meeting with neighbors that addressed concerns.

Hassett 's Google Drive Presentation included a letter from Brian Tuohy of Doninger, Tuohy & Bailey, Change of Zoning Application, Land Description, and a Revised Preliminary Site Plan.

Brian Tuohy introduced himself, Chris McKinny Vice-President of Westport Homes, and Gordon Kritz of Stoeppelwerth Engineers. Tuohy initiated a power point presentation and said he would focus primarily on the changes since the February 13<sup>th</sup> meeting of the PC.

- ~82 Acre Site
- West of Pendleton Avenue and just North of Pines of Deerfield
- Currently zoned Agricultural
- Pendleton's Comprehensive Plan calls for a PUD (mixed use development)
- We are proposing Single Family Residential
- Previous proposal was for 268 homes with only 2 size lots
- Revised Proposed Concept Plan was presented
- Following February Plan Commission, the March meeting with neighbors, and further discussion with Planning Staff:
  - the new proposal is for 237 homes (a 31 home reduction)
  - eliminating all of the smallest lots (50' x 115')
  - increasing the depth of the bordering properties to Pines of Deerfield so they either match or are larger than the Pines
  - amenity area is more centrally located, allowing people to walk or bicycle on an 8' path from southern end to a central playground to the pond and then east to access 600 N path via a trail that connects two cul de sacs
  - the same cul de sac trail provides connectivity to a Pendleton Avenue sidewalk which will connect south to an existing sidewalk.
- Revisions took their density from over 3 homes per acre to under 3 per acre
- More green space had been requested, so they are willing to place 2 conifer or evergreen trees on each property adjoining the Pines. There would be a covenant stating those specific properties would have to replace dead trees and the Home Owner Association would take care of that.

- They are also offering to fence around the pond if requested with a 3 or 4 board horse fence.
- With the above changes it created 17 or 18 acres of greenspace, since more greenspace had been requested.
- Tuohy addressed the concerns about drainage:
  - He is aware that there are lots in the Pines with drainage problems
  - One of the drainage areas is privately owned and is not being maintained
  - Westport Homes would be willing to work out a contribution of money or work to help clean that up for them if they so choose and have permission to do so.
  - Westport would also propose to run a pipe where they would allow the homes that border the proposed development to connect into that pipe and shed their water into that pipe which then goes into a drainage pond, believing that would be an overall drainage benefit to the Pines area.
  - They are also willing to contribute to the other retention pond area.
- Tuohy presented pictures of a couple of bordering neighbors and then pictures of several Westport homes.
- To address a concern that Carrick Glen would be comparable to Summer Lake, Tuohy advised that Summer Lake was a density of 4.5 homes per acre and lot sizes of 45' wide, homes as small as 1000 sq ft single level and as small as 1200 sq ft on two story. Carrick Glen minimum lot width will be 60', less than 3 homes per acre and a minimum of 1400 sq ft and is a much small community being about one fourth the size of Summer Lake.
- Planning Staff had asked that the playground be handicap accessible and Westport is happy to do that.
- Basements would be offered.
- Three car garages would be available.
- Model homes nicely furnished with high end kitchens, which have been very well received by the central Indiana consumers.
- There would be a divided entry on Pendleton Avenue and a second entry off of 600.
- They will install a sidewalk on Pendleton Ave connecting to the existing sidewalk across from Falls Park entrance.
- Average sales price in the Pines is around \$201,000. Carrick Glen will be about \$50,000 more on average.
- Traffic concerns. Tuohy advised that, without question, changing this property from a farm field to anything else will create more traffic. Westport had ANF Traffic Engineering do traffic counts both in morning and in evening. Tuesday, Wednesday and Thursday. At 600 and Pendleton Ave, also an intersection north of there and an intersection south of there. They were asked, based on their counts, to project once totally built out within seven years what the traffic would do to those intersections and then compare that traffic to what it might be if property is used in another way, as it seems likely it will not remain a farm field for ever and given the school is trying to sell it. The report concluded that if used as a school it would have quite a bit more traffic in the morning than generated by Carrick Glen and less traffic in the afternoon. A mixed use development would be an increase of over 200% over a 24 hour period. Overall conclusion is

that the traffic volumes generated by this residential neighborhood, especially with the 31 fewer homes, will not have a negative significant impact on the adjacent road network, but it is a certainty there will be more traffic.

- Tuohy concluded that, this evening, they were seeking a rezoning from Agriculture to Single Family.
- The platting of the lots would come with a hearing before this body.
- If this moved forward, their commitments would be:
  - There would not be more than 237 lots
  - The lots adjacent to the Pines would be the larger size lots with the mentioned trees and the covenants would require that those trees be replaced if dying.
  - The adjacent lots of the Pines with basements could connect to the Westport piping without any charge. Westport would bear the cost of installing the Westport pipe. The running of the pipe from the sump pumps to the Westport pipe would be paid by the Pines home owner.
- Tuohy respectfully asked for the Plan Commission favorable recommendation for a change zoning.

Pritchard asked Stoeppelwerth about the drainage on that southern edge. Pritchard asked if there was going to be a lot of cuts or fill and would it help neighboring properties to the south. Stoeppelwerth said it would either help or not change at all. Adding it will not hinder because the development must flow from their property on their property. When asked, Stoeppelwerth advised their property had positive flow either by swale or pipe or a combination.

Ballentine stated that the traffic study did not address the flow as you hit the gridlock area of Highway 38, State Street and North Pendleton Avenue coming in. Based on am peak times and pm peak times and the backlog the town had today, he asked how the incremental traffic impact would affect the rush hours in these areas.

Christenson shared that there is nothing the developer could do to solve that problem and that is why the Town is doing the thoroughfare plan to identify projects like these and areas like these where the Town is going to need more East West connectors or thoroughfares than we currently have. The Town struggles with that because of the creek and the railroad tracks, but there are ways we should be able to make connections to relieve the pressures that happen on State Street during peak hours. This is a much larger problem than this one development. Christenson noted that the Town will have more information after the thoroughfare plan and we are about one year from completion of the study.

Pritchard asked for audience input:

- Richard Swinford advised he lives on N Pendleton Ave and has seen five deaths where Pendleton Ave connects with 67 and, if we are going to be adding additional traffic, someone needs to be talking with the State about a stop light there. Christenson noted the Town has asked the State to do studies on that intersection several times and at those times the State did not see it as enough of an issue to make a change. She added that the Town will continue to request

studies by the State on that intersection in hopes that the State will see a need for safety improvements there.

- Janice Stamper asked if the proposed development would be provided water by the Town. Jeff Barger advised it would be Town utilities. Stamper advised she was annexed twenty some years ago and still does not have Town water. Barger advised the developer will be paying 100% of the expense of connecting to Town water. Adding, unfortunately for Janice, she is about two miles out, but the Town would be more than glad to let her extend that main and hook onto Town water, but it will need to be to the standards of the water company.
- Nancy Dix lives on Pendleton Avenue and adjacent to the proposed pond on the East side of the development rendering. She asked if the water will stay within the confines of the pond. Gordon Kritz advised that any water that currently drains from the site to her site will no longer drain to her site. It will collect in the pond and be drained through a pipe. Any of her water that comes onto the development site will also collect in the pond and drain through the pipe. He noted from the top of the water to the top of the bank will be about 6 feet. The pond at the center is about 8 feet. It will incorporate safety ledges, for obvious reasons.
- Matt Aldridge spoke regarding the mud pit drainage area in Deerfield and asked if it could be tied in with the other ponds and used for its intended purpose. Pritchard advised that is a center lot line pond which is the problem. Aldridge added it is an eye sore. Pritchard suggested they take it up with the HOA. Aldridge advised they don't have one nor do they want one. He asked at what point it becomes the Town's problem. Pritchard advised it probably drains into a County tile, so it could become a County issue. Chris Taulman advised the other pond owners hire a company to clear and treat the southern pond at a cost of 1100 to 2400 a year collectively.
- Brett Mabrey agreed that it would be great if the new development could help with the Pines water issues
- Chris Taulman commended Westport for doing what they have done thus far. He voiced concern that of the 81 acres they have 17 to 18 acres of greenspace and 237 homes. Take away 17 from 81 and you are down to 64 acres equating to about 4 homes per acre and questioned the accuracy of what Westport has advised. Tuohy referenced the revise site plan and explained the way density is calculated in communities throughout central Indiana is to take the entire site and divide the number of homes by that. In this revised site plan that equates to under three homes per acre. The ponds and greenspace are amenities that go with those lots. Their smallest lots, of which there are 74, is almost 7000 sq ft and our biggest lots are over 10,000 square feet. In surrounding counties, this would be considered a low density development. Low is considered 1 to 3 homes per acre. Medium is considered 3 to 5. High density is from 5 to 8.

Hassett advised that should this rezone be recommended and go to Town Council, the next step would be the primary plat and the secondary plat and at those points the developer will be asking for variances from our bulk matrix standards for single family lots. Our single family lot is 14,375 sq ft which is extremely large. Minimum lot size in Pines 7,875. What Westport is proposing their smallest lot size is 6,900. 2.89 homes per acre and Pines at 2.31 homes per acre.

- Taulman rebutted that in the Pines there is no common green space so what you see is what you get. Not comparing apples to apples.

Pritchard suggested that those questions should be addressed to the Town Council when this comes up for plat approval.

- Frank Magaletti is concerned that Pendleton is not ready for this development and growth. Pendleton is still trying to figure out its own way of running. They still have over a year left on their own studies to make Pendleton a better place. Stating the Town needs to resolve a lot of issues that are currently here and compounding with more will make it a bigger struggle.
- Marcella DeShong shared that her husband developed the original Pines at Deerfield. 20 plus years ago they were told their lots were too small and the DeShongs had to argue that people wanted smaller lots and not so much maintenance. Adding that no Town is ready for growth. They will all have growing pains. As tax base improves then the Town can do more. When a project like this comes and it fits within the guidelines and within the future, the younger the people are they don't want huge yards. You have to look forward to things like this. It is a good plan.
- Dix readdressed the commission stating Westport was bought by Horton. Horton has a bad reputation for follow-up to complaints and for workmanship. Tuohy said it was correct that DR Horton did buy Westport. The executive team of Westport is made up of the Dunn family and they are a third generation home builder. They did not leave. Steve Dunn is the Chariman and Matt Dunn is the President. They have been building homes in central Indiana in 30 or 40 years. The core Westport folks have been the same here in Indiana for many decades.
- Aldridge shared that once a small town is gone, it can't be recreated. He asked Planning and Zoning to keep that in mind because the majority of the people that live in Pendleton, live here because it is a small town.
- Mark Farr spoke from the back of the room on the topic of the pond, stating that it has never held water.
- Willy Boles questioned Jeff Barger about when Westport taps onto Town water, with the addition of 237 homes and using water, will he lose pressure at Pendle Pointe. Barger told him with 100% confidence that they will experience no change in water pressure.
- Noelle Rigaud stated they are not afraid of progress, they just don't see it as progress. Adding a development for the sole purpose of using our park, she doesn't see as a benefit to the current residents. She stated there are many many lots available in Pendleton for building, so to rush to make this property residential is short sighted because of the location of this land. Adding that if the motivation is not the tax revenue, what then would be the motivation to approve something like this when there are so many lots already available.
- Hassett reported that within the Town limits there are 90 lots approved. Over half of those are not yet developed at all. They are in the Falls off of Old 132 and not for sale at this time. Bulk of the rest are in Pendle Pointe and that is a

duplex/condo kind of product that only appeals to a certain type of homeowner. As far as buildable single family lots, there are two lots that are developer owned.

- Romack asked for realtor feedback if any wished to speak.
- Realtor Heather Upton reported that inventory is very low and the demand is high. Not necessarily lots. The big demand is in town and walkable to downtown and the park. She has several people waiting to see if Carrick Glen will happen. Same for the Coronado homes. Stating there is a strong need for this.

Barger spoke to the audience to clarify that just because someone might have a Pendleton address it doesn't necessarily mean they live the Town of Pendleton. He showed a map of the area that the Town staff is paid to represent.

Christenson briefly reviewed the Bike/Pedestrian Plan adopted in 2017. It shows the network we are working on as development happens or as grants are available. Pedestrian bridge will start soon and then connecting that to downtown and eventually extent that out to other subdivisions that come on line. It is all part of expanding our park and trail network to have those fingers that go out to new subdivisions, like the proposed Westport subdivision.

Regarding the bridge, Barger shared that there have been many many committee meetings and the Council has talked about it many times. This is not a new topic just thrown on the table.

- Sue Hughes remains concerned about the traffic, even though the study showed there would be less traffic than if a school was there, because there obviously will not be a school there if the school corporation is interesting in selling it. She also asked why Fortville voted Westport development out. Christenson advised that Fortville actually wanted the Westport project to come on line and the Town Council approved it. Intermill advised Fortville doesn't have a Plan Commission like Pendleton does, they utilize the County Plan Commission. The Town Council recommendation went to the County Plan Commission, two members being Fortville residents, both of them voted in favor of it, but they were outnumbered.
- Tuohy said the density of that project was very similar to the Carrick Glen. Adding that Fortville asked Westport to appeal the County Plan Commission decision, which they did, and there will be another hearing on it March 26<sup>th</sup>.

With no further audience comments, Prichard reminded the Plan Commission that their decision tonight was to rezone from agricultural to single family residential. He thanked everyone for their comments and acknowledged this is a difficult decision.

Plan Commission member Kyle Eichhorn recused himself from this vote.

Carol Hanna shared that she believes this rezoning falls within the long term plan for this community and we are talking only about rezoning at this point and that single family homes are appropriate for that area. Also the fact that this gives the Town of Pendleton the opportunity to influence the types of homes coming to the area.

**CAROL HANNA MOTIONED A FAVORABLE RECOMMENDATION, SUBJECT TO STATED WESTPORT COMMITMENTS, TO THE TOWN COUNCIL ON PC02132019-01 TO CHANGE ZONING FROM AGRICULTURAL TO SINGLE FAMILY. SECONDED BY CHERYL RAMEY-HUNT. MOTION CARRIED WITH A VOTE OF FIVE TO ONE.**

**B. PC01092019-01 – Anita’s Kitchen New location – 525 E State St –**

**• Site Development Plan Review**

Hassett’s Google Drive presentation included Change of Zoning Application, Land Description: Warranty Deed, Neighbors’ Comments, Site Development Plan, 2018 Comprehensive Plan Update Land Use Map of the property, breakdown of Buildable Lots in Town Limits, Zoning district Comparisons between Westport Homes Site, Single-Family, Historic-Residential and The Pines at Deefield, Timeline for Development, Standards for Amendments, Keyes Architects & Associates letter to Kayla Hassett dated November 29, 2018, Site Development Plan Application, Zoning map of the property, aerial photo of the site, rendering of the proposed site plan, current photos of the property and structure, rendering of the proposed site plan, rendering of the proposed building interior plan, Staff Findings, Staff Recommendation and rendering of the property with Planning Staff areas effected by Staff Recommendations.

Project Scope is the conversion of the vacant former auction house/car dealership to sit-down restaurant (203 seats). The complete gut and remodel of east part of building. The timeline was reviewed from the 09/25/18 RenCon submission of plans to Planning Dept.

On 10/5/18 Planning Dept. met with Town Council members Chet Babb and Bob Jones to review the project. At that time, Babb and Jones confirmed Planning Staff’s recommendation that a Site Development Plan Review would be necessary for this project. RenCon was informed that a Site Development Plan Review would be necessary prior to permits being issued.

Hassett explained that a Site Development Plan Review is a really holistic look at a site and how it will be used by the business going in there. It applies to all lots zoned Planned-Business, which are generally all of the business lots we have on our highway corridors, so at 38 and 69, all along 67 in the Town of Pendleton and down SR 9 within Town limits. Planned-Business zone requires a building permit for any substantial scope to come before the Plan Commission for approval; looking at things that pertain to the changes being made. In this case it was a Change of Use that will bring in more traffic to this location.

On 11/26/18 the Planning Dept spoke with Charlie Keyes, the architect, about submitting for Site Development Plan Review for this project.

On 12/10/19 Lennie and Anita Stewart did submit an application for Site Development Plan Review.

On 01/04/19 Public Works and Planning staff meet with the Stewarts, Charlie Keyes and Willie Boles on-site and it was decided to postpone the site Development Plan Review

until the February Plan Commission meeting, with an agreement that the petitioner was to provide a boundary survey and an updated site plan and that the town would conduct a traffic study of the corridor due to concerns in that area.

The town contracted with Banning Engineering on 01/07/19 to provide a traffic study by 02/13/19 for \$11,500.

On 01/09/19 the Petitioners postponed getting on the Plan Commission agenda until the February meeting.

Banning Engineering delivered the traffic study to the Town of Pendleton on 02/05/19 and the traffic study was shared with the petitioner on 02/11/19.

Plan Commission tabled the Petition at the 02/13/19 Plan Commission meeting waiting on more documents and more time to analyze those documents.

On 03/07/19 the updated site plan and boundary survey were submitted to Planning Dept. by Keyes Architects.

Hassett stated the Planning Dept has not received the lighting plan for the parking lot or a sign plan, which will need to abide by Town Ordinances and are required as part of the Site Development Review process. The lighting of the parking lot is a concern there. The parking lot currently has a few security lights on wood poles, which don't comply with our Planned-Business Design Guidelines and it is a service our electric department no longer offers and is phasing out as they come to our attention.

Hassett noted the Petitioner's Site Plan, included in this presentation, additionally did not include building set back lines, parking lot set back lines, a bike rack which is required as part of the planned business design guidelines, or perimeter sidewalk. However, staff spoke with the petitioner and, due to the narrowness of the railroad overpass, it is Planning Staff's recommendation that a perimeter sidewalk, the entire width of this site, **not** be provided because the railroad overpass can't allow for sidewalks on that side.

Hassett advised that the structure is a non-conforming structure, which means it was built years ago and, according to that Ordinance, is to allow these structures to exist and continue to exist, but not to encourage the growth of the building, so a building like this would not be allowed to have an addition of any substantial amount or addition of a second story. It is limited because it is non-conforming due to it being so close to the property line. This structure is roughly 20' from the front boundary line and if a new building were built on this site today, according to the Ordinance, it would need built 65' back from the property line.

Additional concerns we have at this site are the massive amount of pavement connecting to Central Way which runs on two sides, and it is connected by pavement all around the edges and the very wide curve cut directly in front of the building.

**Staff Recommendation** presented by Christenson

**PARTIAL APPROVAL**, with the following commitments to be completed

- **Parking lot lighting plan** to be submitted by petitioner which shall be in compliance with the Zoning Ordinance and Planned Business Design Guidelines. An improvement location permit (ILP) will be required.
- **Location of bike rack** to be included in site plan which shall be in compliance with the Planned Business Design Guidelines. This might be a minimal thing, however, our Town Council has a commitment to bicycle/pedestrian infrastructure in our community and this has been a piece of our Planned Business Design Guidelines that have been in place since the 90s.
- **New parking lot curbing along State Street** shall **not** be installed, as it would be in the Town right-of-way. Changes to the edge of parking lot must comply with ordinance, which requires 10-foot setback off front property line.
- **Dumpster enclosure** must be made of wood or masonry, finished to match the building, and 100% opaque.
- **Remove existing entrance** along State Street that is just west of the intersection of Central Way. Petitioner to work with the Town to determine appropriate location of a Town sidewalk to tie into the Petitioner's internal sidewalk system. Petitioner to resubmit design of this area to show updated 'Future Outdoor Event Space and Landscaping.'

Christenson noted there are quite a few issues in this area for consideration. The existing concrete drive, the petitioner is proposing that much of it be closed off by a fence blocking off access to front of structure. That area is proposed to be an outdoor event space and landscaped area, however, planning staff recommends that this entire driveway cut be removed and the main entrance to this site will be the area of the existing west driveway. The traffic study showed some issues with this corridor and INDOT, as part of their SR 67 project, is also looking at this corridor as well, and any improvements that are done at this intersection are going to have an impact on this area. The traffic study is included on Google Drive for PC review. Its notes the east drive should be removed and the main entrance at the west drive location. The study also indicated an exit on the north side of the property but there would need to be some sort of intersection treatment as it goes to Central Way. As mentioned earlier, there is a large swath of asphalted area that is not channelizing or making an intersection for traffic coming on or off of East Central Way.

- **Submit redesign of west entrance off State Street** to reflect Town's street standards.
- **Submit redesign of north and east side of property** showing formal entrance onto Central Way that reflects the Town's street standards. Redesign should also show removal of existing asphalt in Town right-of-way and show it being replaced with a grassy area and appropriate curbing.

Pritchard asked for clarification on behalf of the petitioner, so they know what to do. Christenson said their recommendation would be ingress/egress area defined by

some curbs, however, we don't think it is feasible to ask petitioner to put a curb and gutter all along the north and east area to define the road from the greenspace. However, we think it would be appropriate for that concrete to be removed and grass be planted in that area to provide that separation. Adding that if the petitioner could submit what their preference is, then it could be reviewed and determine if it was safe and met what needed to be done. A lot of this hinges on what the petitioner envisions those three bays will be used for in the future, whether that will be offices or if those overhead doors will remain. Planning doesn't have enough information yet in order to make more definite recommendations.

- **Install screening between parking lot and residential zoning district.** Refer to Planned-Business Design Guidelines for appropriate treatments.
- **Exterior walls** must be inspected and deemed free of loose or crumbling block by a mason before a Certificate of Occupancy will be issued.
- **A letter from FCRWD** approving the change of use must be submitted to the Town prior to a building permit being issued.

Charlie Keyes, the architect for the petitioner, advised this site plan is loose because of so many things that need discussed. It's not scrap this thing and start over again to meet all the rules. It can never be developed again here and money wide it can't happen. It would probably double their budget. He understands about the parking lot curb along State Street. They understand about the dumpster and it will be steal frame with wood around it with little gabs for air. Their problem with removal of existing east entrance is the expense of closing all of that in, so they were trying to make it a standard drive lane for in and out and then fencing the west entry so it isn't open anymore but would still remain concrete because that was put in years ago and approve by the state at the time. They were hoping to control the egress at the store front.

Keyes went on to report that they currently do not know what the non-restaurant structure will be used for. The entire structure is 12,000 square feet and they only plan to use about half of that initially. Obviously, they can't buy it and tear it down, so it will need to be developed into something. If we close the north side off and leave the garage doors, there would no longer be access to them. They have already decided to close the south facing garage doors and put parking there and, as further development comes along, they will change the front of the building for that. He reported they have enough parking for their use and additional space to the west that could be additional parking for other businesses.

Keyes stated it is their hope that they can leave the north property as is for now and make decisions for that area once more development comes along. In additional, closing off the east State Street entrance will be very expensive, getting rid of the curbs and getting rid of the concrete. Leaving it gives us two entrances and exits off of State and, for restaurants, it is nice to have that extra in and out.

Keyes reported that all changes they are making to the building will be to current codes and handicap accessible. There is a lot of money being spent on that building and they are having trouble justifying all of the money going into the building with the money

coming out for restaurant use. They are trying to be careful about getting into the building and paying for it without over burden at the moment.

Ballentine asked where the truck deliveries will be made. Keyes advised it is at the northeast corner where the trucks can either pull off the street and then back into the dumpster or make deliveries to the restaurant, so they will not need to back in off of the street because there is enough space on site.

When asked, Keyes advised they want to use the existing large overhang on the front of the building for a future patio and put a fence across that and curving back to the building so there will be 25' from the existing curb and the control fence for two lanes of traffic, one in and one out. And then they would have the existing west entrance and then along the back side. The site has access on three sides existing. He is hoping, especially with the east State Street entrance, to be allowed to move forward without having to disrupt the curbs and concrete and also leave the north side as is until they know more. Any changes to the north part of the structure will then come before Planning for anything new back there.

Keyes also reported that the bicycle rack was already in their plans to do, it simply got overlooked on the site plan preparation.

Pritchard asked, with respect to where the trucks can pull in and straighten out and back in, will there be parking there. Keyes advised that area is just for trucks and deliveries. No parking.

Eichhorn asked if it was the town's drive to turn SR 38 to local. Christenson believed it was the town's initiative. Eichhorn stated there was a Planned Business last year that asphalt parking was allowed to remain in state right-of-way. Barger advised that with a state right-of-way that is a state issue. This location is something we need to work through as a Town because it is a Town right-of-way. Adding that is why the Town did the traffic study which suggested that the east State Street entrance be completely closed, which the Town had not anticipated that result from the traffic study. The Town had anticipated closing the west entrance and reconfiguring the east entrance, but the traffic study resulted differently. Barger added, as congested as that area is, that there be only one in and out off of State Street.

Eichhorn also referenced a development at Water and SR 67 and he did not remember a bike rack being required for that property or a lighting plan for that development. Hassett advised that it is a display area, not a parking lot, so it did not require a lighting plan, adding that the Plan Commission allowed that property owner to have two years to satisfy the requirements for that property and added there was a bike rack requirement.

Keyes referenced the current lighting at the property, stating they are wooden poles with the old style lights. They are hoping to get some relief on that. Suggesting some time. Or perhaps just adding newer lights to the existing poles and wires would save a fortune. Barger advised that the lights are a utility issue and nothing this board can address. Keyes asked if they could petition the utility company and Barger advised that unfortunately those poles will need to come down. Barger asked that it be kept in mind

that this is definitely a change of use. The car dealership has not been there since 2008, so ten years it has basically been a shell of a building. Everywhere there is a change of use we have taken down that lighting. Keyes asked Barger is they could have some time. Barger said it would not be fair to the others that have been effected by the same.

Keyes stated they will need a new lighting plan and also a new development plan after this meeting.

Eichhorn asked for clarification that Planning is proposing for the east entrance is to tear out all existing curbs and concrete. Christenson said the curb would be along State Street and then grassy strip between the road and the property which is the town right-of-way. Eichhorn asked if they want sidewalk on the north side of State. Christenson noted that is the part where the Town needs to work with the Petitioner on what would work best, stating it is important to have some sort of pedestrian connection to their business.

Eichhorn asked if Smith's had a traffic study done. Christenson advised that she believes the Smith petition came in prior to her working for the Town. Eichhorn asked what the traffic study results were for the Smiths area. Barger said the study suggested quite a few different items. It suggested potentially closing one of the south side entrances, but, again, the Town is not able to enforce this type of change until there is a change of use. Barger added another reason the Town did the traffic study now so that we could have a plan to potentially work with the State on what we want to do. Christenson added that the traffic study is available on Google Drive and it does show there is a proposed median on State Street from just east of Central to the SR 67 intersection. So Smiths would then be a right-in right-out. CVS would be a right-on right-out only. The median would not extend down to the petitioner's parcel. They would still have full access.

Romack stated that the Town is asking them to reconstruct along State Street in the possible event that the project for 67 may cause that to all be torn out again. Christenson said no, that project is not in the State Highway Improvement Plan. So that is a project that is not in the books yet to be funded. So the Town is working with INDOT to make sure that when the State does get that on the books, the Town can get the improvements that the Town would like to see there on 67. The Town does not have commitments from INDOT on how far down their project will go but we know it will not extend past the viaduct. But it depends on what their improvements on 67 are going to be as to how it influences this small corridor. So nothing is set in stone nor any commitments from INDOT on what those improvements will be or even if they will make any improvements there. It depends on the number of lanes they are putting in, the amount of right-of-way that has to be acquired on 67 and then how that will impact the corridor. Romack asked what the time frame is for the State to have at least a plan without funding. Christenson reported that the State did a mini-scope and, once we saw the mini-scope, the Town did a meeting with INDOT to talk with them about what the Town wants were. She doesn't know when the State will have something back to the table for the Town. She answered she did not have an answer to his question. She did add that the mini-scope did not show any changes to the drives, it showed a median that would cut off access. Romack asked if the mini-scope incorporated additional curbing

and/or sidewalks in those areas. Christenson said the Town wants that to happen but it was not something included on the INDOT mini-scope.

Eichhorn shared that he reviewed the traffic study report and they propose modifying the INDOT plan to put the median stopping east of Central Way and maintaining full access to Central Way, maintaining full access across from O'Reilly and the entrance to the west. So their proposal almost lines up with the existing O'Reilly. Its not off set that much. Where they are proposing to keep 25' of the existing entrance. Christenson said that Planning staff is open for discussion on this. The best case scenario from the Planning Dept would be we need to not have as many entrances and ingress or egress on State Street for a number of reasons. Whether they keep the west entrance or the east entrance, she thinks they are open to that discussion, they simply need more information. Eichhorn asked if the petitioner were to keep the west side of the larger entrance and enclose the part right in front of the building, could they do that with decorative bollards instead of tearing out all of that concrete. From a safety standpoint, Christenson said she would not recommend that. Having the wide apron there it is inviting vehicular traffic into that area. So for safety, she believed it needed to be shrunk down to the actual ingress egress area so we are not inviting vehicles to potentially go into an area that is being proposed as a future event site. Pritchard said that made sense.

Christenson went on to say that if the drive is kept there on the west side of that large entrance, she did not think it appropriate to keep the entrance further down on State Street closer to the viaduct. Having one ingress egress of State Street is appropriate for this site. Eichhorn noted that the traffic study stated full access maintained for three driveways: the west entrance, across from O'Reillys and Central Avenue were the three it recommended. Barger added in their conversations it was IF they were going to have an east entrance drive, it needed to align with O'Reilly. He added that they steered a little away from that because when we met out on site, obviously that would be a huge expense. If they want to redo that drive straight across from O'Reilly that would make perfect sense and might be the safest for everyone and close the west entrance.

Lennie Steward, an owner of Anita's Kitchen, said his problem was that the Town is asking them to make all these changes when the Town doesn't know what is going to be happening to State Street if you look at that traffic study. The Town wants curbs and sidewalks put in at Anita's expense so the Town doesn't have to pay for it when they redo all of State Street.

Stewart went on to say that their delivery trucks are there by 5 or 5:30am and gone within 10 minutes. So the Town is worrying about traffic on Central Way blocking it when we have that right here in town with delivery trucks blocking complete alleys or even State Street so he doesn't understand why they are concerned about Central Way.

Steward said the Town is worried about the parking lot lights, adding there are a lot of businesses in town that have those parking lot lights. When the Town wants to phase them out, they should phase them out for everybody and make everybody put up new. Not pick and choose who they want to.

Cole Kessler spoke about the new car lot and there are things there that haven't been taken care of but its open. The parking lot is uneven. It has no lights. Pritchard advised that this topic was already addressed this evening and that car lot was approved last year. Kessler interrupted to say that he doesn't think it's the same for everyone. Pritchard started to speak again and was interrupted again by Kessler about Rachel commenting that she wants a Fall Creek Regional Waste (FCRW) report before she gives a building permit. He went on to say that he knows the new coffee shop place is hooked up to FCRW already and the garage is going to be brewing coffee back there. Barger attempted to answer, but was interrupted by Kessler who went on to say it is not uniform and it is not the equal how people are treated. That it is pick and choose and there is nothing ever for sure with small business or for people. If we don't help Anita's Kitchen stay here and make this financially feasible, he advised the Town staff they are not doing their job. Kessler spoke at Barger about the light issue and said he wasn't listening and he was just telling them how it was going to be. When Barger tried to speak he was interrupted. Barger asked Kessler to let him know when he could reply. Kessler left the pedestal.

Barger advised FCRW is not owned by the Town. The Town reached out to Mr. Keyes and Anita's because there is going to be a substantial amount of money to be spent for FCRW. Barger added he spoke with Tim McCurdy early today and was told Anita's had not talked to the waste district. The reason Barger asked for that to be put on there again tonight was he did not want them to be surprised when they get hit with another big bill. The difference with the coffee shop is that is not a full service restaurant and, again, those are things that FCRW needs to talk about. There are certain rules and policies that are already on paper for FCRW and that is why we reached out and that is why we told them again that they need to talk with the waste district because of their budget. They talked about it the day they were all out there. He talked to Mr. Keyes about it and Kayla Hassett has talked with them. Kessler spoke loudly from the other room about the Town collecting EDU monies and if they did for the coffee shop.

Christenson advised that when projects come into the Planning Department, Planning reviews each one according to what the zoning is for that property and if they are required to go to the board. All the recommendations that we are making tonight, we do our best to look at what our Plan Design Guidelines are and what our Town Ordinance says and we try to make sure they match up the best that we can. If there are discrepancies between what the Petitioner would like and Ordinances and Design Guidelines say, we bring them to you, the Plan Commission, to make that ultimate decision. It is not me and Kayla sitting in an office telling anyone what to do. We are doing our jobs by presenting the facts and the information and giving our professional recommendations on this to the PC. So, that is where we are. We know that Planning is not the ultimate decision makers. The Plan Commission is the ultimate decision maker. So Planning has recommendations they are bring to the Plan Commission. The recommendations are what we think would make the site follow our Comprehensive Plan, follow our Planned Business Design Guidelines that you guys adopted and that the Town adopted, and if those are not what we would like to see, then we need to go back and fix those Design Guidelines or the PC needs to give a variance to those Guidelines. Planning is presenting to the Plan Commission what safety issues we see and what

doesn't match up with what the PC have told us they would like to see in projects that come in like this.

Anita Stewart wanted to know if the existing lights are no longer good, why she is still paying a monthly fee for them. Barger replied that the Town could remove them upon Anita's request at any time. Adding, in his opinion, it would not be fair for the Town to phase those out immediately for everyone. With a Change of Use, this is the only time the Town has the opportunity to deal with those.

Anita Stewart then indicated that they are a small business, trying to take this place and make it better, and they can't do all this at one time. It can be done over time. She indicated this whole thing could have been prevented. She asked who the head of Planning Department was. She was advised Tim McClintick. Anita advised, before they ever signed papers, Lennie came down and told McClintick what they wanted to do and asked what they need to know. She reported that McClintick advised it was a great idea and that he said he didn't think there would be anything to cause a problem. Adding any time they tried to contact McClintick he is not available and they don't get a response. Adding their architect waited four or five days before getting a response from McClintick.

Pritchard asked Hassett to bring up the map with requested changes. He noted that this project appears that it is going to be divided up in segments or timeframes. There is a lot that is going to happen here with the building and the cuts and roads and sidewalks and obviously their budget. He believes we should square this thing off and improve a section of it at a time. Address a few of those items and give them time to come back with a plan for phase 1 then phase 2 then phase 3. It's a budget thing. It might help the petitioners if the total picture could be cut in thirds. Let them address the entrances on State. And the rear area. He didn't believe it would be possible to prevent people from driving around the rear of that building and going north. So in the meantime, they are going to have to do something in that rear area, if they develop the restaurant section only. Suggested they try to give to Planning and the Plan Commission something they can approve. As far as that common area and the grass and what to do with the east entrance and west entrance, there are a lot of items missing from the Planning Department prospective and noted Mr. Keyes knows there are some things missing. So if it could be divided up into sections and prioritize, and maybe come back with a plan to address the restaurant, the State Street entrances, do something with the rear, close it or fence it, so there is some control over traffic and parking, and then move forward.

Anita Stewart added that if the rear was left open it would help with State Street congestion. Lennie Stewart advised this property is made up of four lots, so shouldn't there be four openings, adding, what would happen if they sold off the additional lots. Pritchard advised that he had doubt that the County would let them do that. Lennie went on to say this was the first they had heard about keeping the west entrance and that, when they spoke with Jeff Barger earlier, Jeff wanted the west entrance closed. Barger reported that is why the Town had the traffic study and it was the study that provided data to leave the west entrance. Lennie said he was also advised their parking lot wasn't big enough but the traffic study results in them taking some of the parking lot.

Christenson advised her concern with the rear area is that there needs to be a stop sign when you exit the parking lot when exiting onto Central Way and how that can be addressed when it is wide open currently. Adding that is something we need to take into consideration when we are working together to make this project work. Lennie went on to say Smiths is wide open and O'Reilly is wide open. Christenson agrees those are a mess, but they are not changing their use right now and the Town can't request they change that when nothing is being changed right now.

Keyes stated that if the rear is a concern and we break this into pieces, we could run a fence or a barrier straight from the building back to the corner of that parking lot, so it doesn't change what could potential develop back there. That would control the traffic but not prevent future use. Pritchard agreed and asked Keyes to work up a proposal for that. Pritchard also asked for a proposal on State Street east entrance area and the west entrance. Asked Keyes to give Planning a couple of options. Keyes asked for clarification on the east State Street opening and if they would need to tear all of that out or could they use a fence to control that until the State Street work is reworked.

Alex Intermill stated, since it sounded like the Plan Commission is heading down the path to table this and ask for additional information and a revised Plan, he cautioned on approving hypotheticals. Pritchard shared that the petitioners need to submit some ideas for the State Street east opening area and for the west opening.

Eichhorn asking if the Town anticipated INDOT doing improvements or provide funding for improvements all the way to the viaduct. Christenson reported she did not expect INDOT to be taking out that drive. She didn't expect them to be taking out any of the drives. What she expects INDOT will change is to add a concrete median down the road and that would be the change.

Romack stated his concern is if we tell them to submit some additional plans in thirty days, we are delaying them an additional thirty days. Asked if there was anything the Plan Commission could do to move things along. Intermill advised the Plan Commission could call a special meeting with 48 hour notice and posting it as soon as they are ready.

Pritchard ask Keyes if he had questions about what Planning is asking for. Keyes said the trouble is trying to figure out how to move forward because it won't match what everybody wants. Adding they need to move forward and save all that they can.

Barger asked Keyes if the primary concern with the proposed change to the east opening area was the excavation of the concrete. Keyes said that was a big part of it, but added the Stewarts wanted to leave the east opening because it was right at the restaurant entrance. Barger added that if excavation of the concrete was potentially the only issue we could talk about that when we get with the sidewalk proposal. We can talk about the sidewalk hooking up and we can talk about the involvement in helping do some excavation and trying to make some things work for pedestrian safety. Keyes advised its not just the cost of excavation and that the Stewarts want to leave a drive there. Barger said the Town couldn't be involved in something the staff thinks is unsafe. Christenson added, that is, unless the Plan Commission approves leaving an entrance there.

Anita Stewart advised the outside dining is on down the road. It is not tomorrow.

Pam Rector asked, when Willie Boles put the property up for sale, did he know that the lights were going to have to be replaced and that all of these changes were going to be needed. That is a lot of money for two people trying to survive and for them to be hit with all of this thrown in their face after the building was bought, that is unfair to Willie and to Lennie and Anita and unfair to Pendleton.

Willie Boles stated that the State Street east opening was put in by myself and the State of Indiana and approved by INDOT and if they came through with a new study he was sure they would take something they previously approved out. Sidewalk along Central Way is a terrible idea. Christenson advised Planning is asking for a sidewalk to their front door connecting to the existing Town sidewalk. Boles went on to address the rear and reported you can't close that off or fence that off because there is a fire hydrant there. Boles had grass there for years and then blacktopped it because Kurt Kahl wanted to pull fire trucks up close.

Barger reminded that staff recommendation is for a designated drive for safety issues. Noted that if Boles still had a dealership there were employees that would pull in and out of there it would not be touched, but now there will be people from out of town and they will have no direction on where to go to turn right or where do you go to turn left. But, the back of that building, when it changes in use, and he understands people are tired of hearing that, but that is when we have the opportunity to address the issues that are there. If Boles still had the car dealership there, we wouldn't talk about that rear area or the lights or the State Street entrances, but now that a restaurant is going in there, which is totally different, that is the only time we have to address those issues and safety concerns we see. It seems everyone believe we are coming out with this all last minute but we have been having conversations on this and asking for information since September. Anita asked with whom they had been asking for information. Hassett advised RenCon, Mr Keyes and the Stewarts. Hassett advised they talked initially with whomever submitted the paperwork.

Many conversations ensued at once making it impossible to document in these minutes.

Boles added that in the 37 years he owned that property there was never an accident in the rear or the front of it. Barger agreed with that but noted that was when it was a dealership and now it is going to have 200+ cars in and out of there each day now that it is a restaurant.

Intermill advised that this all goes back to, not only the Town Code, but it is Indiana Law, that when you have Change of Use like this, and it is nonconforming, the law instructs the Town to bring this into compliance. Also, another piece of this is the standard for you to consider and one of them is all of the circulation systems provide adequate and safe access to the site, compatible with the public circulation systems that are existing, for cars and pedestrians. So that is not Rachel or Kayla or Jeff or Tim, that is Town Code that has been adopted and is in place and if that is not acceptable then we need to take

a look to revise those things. That is why you are having this discussion. This is the right discussion and the right questions to have, but these are not things pulled out of air.

Boles closed with saying that the Stewarts are going to do nice things to the outside of the building. It is going to look good. People come from surrounding communities. The Stewarts are good people and they employ a lot of people in this town.

Julie Schnepf, President of the Business Association (PBA), stated two years ago the Association had 4 members and they now represent over 90 businesses. This year their goal is to connect businesses with non-for-profits such as the Artist Society with 141 members and make a community. They want to connect businesses with the community. They are here to represent Anitas. They are here to represent R&R. Schnepf shared, as a business owner, they become the target. Pointing in the area of Planning staff, Schnepf reported that most of these people don't want to associate with her because her job is to associate with people like the petitioners. She stated she risks her own business by stepping up to build 90 other business up and she is looked down upon. She stated all of the businesses are looked down upon. She stated it speaks volumes that the head of the Planning Department is not there. She said Kayla is awesome to work with. She told the others she was sorry they got stuck holding the bag tonight. The leader should be here, just like the leader of the PBA is here tonight. This is our town. Schnepf quoted when Kayla said 'if it is non-conforming we are not to encourage growth'. She had written it down. Why do some businesses get the fast lane and some businesses it like going through molasses. They want us to fight their battle so all these people hate us and we are the target because we have to come stand before you guys and represent them. She advised they are doing so many wonderful things in the business association. None of the town staff have been to any of the PBA meetings except for Mike Romack who has been an incredible support. They get no communication from the Town. She stated her point was, if they are not to encourage Anita's growth because they are non-conforming, because they are historic, because their building doesn't look like every other building, what are we doing here. We finally got the answer to why Anita's is being given such a hard time. They make eggs and bacon. They are not engineers. Help the people out. Schnepf went on to advise that she put her business on the line when pushing a surveyor to get the survey done on Anita's property or he wouldn't get any more of her business. Without the survey, Anita's could be on the agenda tonight. She added this mickey mouse stuff matters and she gets it, but she wants Planning to know, not everybody knows what they know. What she wants, as the PBA President, is Planning to help us. She wants to partner with the Town. She does not want the fighting. Christenson shared that Planning wants the same thing. Barger advised that all he has been asking is for continued conversation with Keyes so we could get this done. She referred to the Westport petition and how we are screaming growth. She didn't stand up earlier when Mike Romack asked for realtors to speak because Schnepf makes a profit off of those homes and she didn't want to give her opinion because it would be tainted. These people just want to make bacon and eggs and they want to do it in Bole's cool old building. Boles is one of the most respected men in this community and when our Town Manager doesn't want to speak to him anymore without an attorney present, that is crazy. We have to find a hero and find an adult in the room. We have to quit hating people in this town. Mike Romack was the adult in the room tonight when he said we have to stop this. Stop adding on and adding on and quit

trying to eat the elephant in the room. She went on to say Pritchard made the perfect suggestion to quit worrying about this other stuff and don't make these people worry that they will have to put \$500,000 on them in six months. She advised Planning staff that none of them are self-employed, but the 90 businesses she represents are. No Planning staff has ever asked her how the businesses are doing in Pendleton. Schnepf said she had the answer because she works an extra twenty hours a week to represent them. Some are barely hanging on. She noted that Tim McClintick needed to man up. We can debate. We can argue. We can get passionate. But we are a community and we can't make that an all or nothing. Not, we had an argument so we can never speak to each other again. Its after 10pm and we all care enough. We want to find an adult in the room. Schnepf advised she is proposing unity and grace and common sense. She told the Plan Commission that they are all so smart and she could listen to Kyle Eichhorn all day long. The boards hold these meetings and hold these meetings and why don't we just forget the meetings and go help these people. If we were helping them, we wouldn't be here with this many people at 10:15 at night. We love Anita's. She wants us to help them. We doesn't want another 60 to 90 days. She doesn't want us to deal with things we don't have to deal with and she said the Town doesn't want her to give a list of all the ways the Town treats some businesses different than others, because we know. We want people to be treated fairly and consistently.

Anita shared that they feel like the red headed step children. Christenson said Planning feels like the red headed step children.

Pritchard called the meeting to order and thanked everyone for their comments. He addressed Mr. Keyes and said that he needed to get it in fast gear. Saying let's try to get these problems solved as quickly as we can. The PC can hold an emergency meeting within 48 hours, so the burden is on Keyes' back. When asked earlier if Keyes knew the answers for what homework is needed and, if not, Pritchard encouraged Keyes to get with Rachel and Kayla with some proposals. Come back with some ideas, not just one. Message these and ask them, so when we come back in here we can all agree. There is a lot going on there and Pritchard again encouraged Keyes to spend some time here at Town Hall with Planning as soon as you can.

Intermill advised, when an emergency meeting is called, it can be done with a 48 hour notice. Weekends and holidays do not count. There must be a quorum of Plan Commission members. Determine a date and time that works and it is a matter of posting it for the public.

Pritchard asked Keyes to contact Kayla in order to set up that meeting and the Plan Commission will come together to move this along.

Barger shared they would be happy to sit down with them to work through the plan. Pritchard advised Keyes that he needed to get with Planning tonight before leaving to set a meeting for tomorrow to start resolving. Hanna suggested including some priorities and timing, stating that everything doesn't have to be done at the same time. That we often allow phases.

Intermill wanted to remind everyone that when this comes back in front of the Plan Commission, the PC can either approve it as presented, deny it, or the PC has the ability to approve it with modifications. So there is absolute ability for the PC to make some changes. Pritchard asked Keyes that they bring back some options and timeframes and focus just on that one parcel for the restaurant only for the next meeting.

**TIM PRITCHARD MOTIONED THAT THIS BE TABLED, UNTIL MR KEYES REQUESTS AN EMERGENCY MEETING. SECONDED BY BRAD BALLENTINE. MOTION CARRIED.**

Next regular Plan Commission meeting is scheduled for April 10, 2019 at 7p.m.

Meeting adjourned at 10:21pm.

Kate Edwards  
Planning Clerk Town of Pendleton