

The Pendleton Plan Commission met on May 9, 2018 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, Carol Hanna, Mike Romack, Cheryl Ramey-Hunt and Kyle Eichhorn. A quorum was established. Representing the Town were Town Manager Tim McClintick, Assistant Planning Director Rachel Christenson, Planning and Zoning Administrator Kayla Hassett, Director of Public Works Jeff Barger, town attorney Alex Intermill and Planning Clerk Kate Edwards.

Also in attendance were Town Council President Bob Jones and Council member Chet Babb, Morris and Barb Hensley of 9648 W Fall Creek Drive Pendleton, Bob Post of 320 S Pendleton Avenue Pendleton, Mike Hanna of Pendleton, Bill Haygood of 5431 S 360 W Pendleton, James Jarrell of Pendleton, Dan Taylor of 3982 W 950 S Pendleton, Shane Isaacs of 416 S East Street Pendleton, Charles Clevenger of 9193 S 150 W Pendleton, Ralph and Kathy Ridenour of R&R Market Pendleton, Susanne Novak of 2531 W 1000 S Pendleton and Brad Voyles of Pendleton.

Pritchard announced that board member Hanna would need to leave early and the order of the Agenda would be changed with the New Business going before the Old Business.

## **MINUTES**

**MOVED BY KYLE EICHHORN, SECONDED BY CAROL RAMEY-HUNT, TO APPROVE APRIL 8, 2018 MINUTES. MOTION CARRIED.**

## **NEW BUSINESS**

### **PC05092018-01 : R&R Market – 7204 S SR 67**

Hassett introduced Ralph and Kathy Ridenour, petitioners and owners of R&R Market. Went on to indicate there have been recent changes associated with the property. The site, located at the intersection of SR 38 and SR 67, was partially on school property. Since Fall of 2017 it has been condensed down to its actual lot size as shown on the Google Drive presentation. Planning Staff issued a demolition permit for the house that was there. Greenhouses that were located on school property were issued a temporary permit to be placed at the location of house, with the temporary permit lasting from April to November. Other activities at the site have prompted site development reviews, such as placing concrete and gravel, as well as petitioner's request to put some fencing up. Moving on thru the Google Drive presentation, Hassett presented the petitioner's site plan, showing the layout of the site and how they would like to conduct business on that site, the existing one story metal building with the attached greenhouse and then the new greenhouses. Petitioners would like to ask the Plan Commission to keep the greenhouses as permanent structures instead of temporary. The third new greenhouse, the smallest on the end, has not granted a temporary permit and is not up at this time. She reported that backup inventory can be seen in the space behind the one story metal building and stone along the east property line which is behind the greenhouses and out to SR 38. This is a property that has been business zoned since before the Planned Business Design Guidelines existed, so it is difficult to make them adhere to these guidelines strictly, especially when changes are incremental, reporting that Planning tries, in these cases, to have the properties come in line with those Planned Business Design Guidelines when they do make changes, trying to just look at those pieces and parts that are changing.

Hassett included some photographs of R&R Market from Google Earth from before the house was torn down and the greenhouses were moved. Also a photo of what it looks like today. The greenhouses have been relocated. There is still some construction equipment in the parking lot due to the construction. A photo from SR 38 view before the house was torn down, showing the driveway cut and the beginning of a storm sewer culvert and a wood fence roughly on the property lines. Then a photo of the site today. The school has removed many of the trees in the fence row. The picture is taken from the edge of the storm sewer culvert and it shows there has been some gravel placed between the driveway cut and the culvert adjacent to the sidewalk. Another picture showing the sidewalk near that culvert and the gravel up against the sidewalk. A picture showing items stored in the State Road right-of-way currently around the R&R Market sign which is not on their property. A picture of the lot shape with the set-back lines for Planned Business zoned properties; 65' off of arterials like SR 67 and SR 38 and 20' set-backs off of side and rear property lines. Additionally there is 10' parking set-backs off of the front and 15' off of the sides and rear. Once again, this property has been developed over the years, so we are asking that these set-back lines be kept in mind when things are changed. A picture of existing buildings which includes the metal pole barn as well as the greenhouse next to it, showing they are over the property line but it is an existing building, a non-conforming structure that pre-dates our zoning ordinance. Next are the three proposed greenhouses that all fall about 10' from the east property line.

### **Staff Findings**

Hassett advised that she included Staff Findings from the Unified Development Code and the Planned Business Design Guidelines. Most of the Unified Development Code she left for the Board of Zoning Appeals to sort out if it goes to them because that is more of their territory. Planned Business Design Guidelines are above and beyond our Unified Development Code and held to stricter standards to Planned Business Zoned lots in town.

To refresh why we are here tonight, Hassett indicated that all applications for Improvement Location Permits, which involve property located in the Planned Business Zoning District shall require Site Development Plan review by the Plan Commission.

- Petitioner needs a fence permit and should have obtained an improvement location permit for sidewalk and gravel installation. Petitioner would like to permanently install greenhouses.
- Staff issued permits for house demo and temporary greenhouses in December 2017

Temporary uses are addressed by the Unified Development Code with a section that states we can have a Sales Office, Bazaars, Carnivals, Sale of Christmas Trees, Seasonal Fruits and Vegetables and similar uses as deemed appropriate by the Planning Director.

### **Planned Business Design Guidelines**

#### **G1. Site Layout**

##### **A. Buildings**

1. Setbacks: All buildings should meet the following setback requirements:
  - a. Front Yard: The Front yard setback for buildings, measured from the right-of-way, should be 65 feet when adjacent to an arterial or collector road, as designated in the

Master Thoroughfare Plan.

- b. Side and Rear Yard: The minimum side and rear yard setbacks for buildings, measured from the property line, should be 20 feet.

B. Parking

1. Setbacks: All parking lots, including any driving aisles and interior drive areas, should be setback a minimum of 10 feet from all front property lines, and a minimum of 15 feet from all side and rear property lines.

The stone on the east boundary line that heads back to the backup inventory area is right on the property line.

G2. Architecture

Buildings should be comprised of a variety of high-quality materials. Developments should provide a human-scale and pedestrian oriented experience. Facades should be designed to lend architectural interest and variety to the development while retaining compatibility with surrounding sites. Architectural detail should be extended to all sides of a building to ensure a finished and consistent look.

Greenhouses are a unique type of building that are not addressed by the Planned Business Design Guidelines, however the architecture is and the Plan Commission should have a say over buildings in the Planned Business District being aesthetically pleasing. The Plan Commission can judge something like greenhouses, maybe not strictly against the materials listed in the Planned Business Design Guidelines, but with the understanding that they can be aesthetically pleasing to look at.

G4.B. Screening

1. Outdoor Storage: Screening of outdoor storage should be governed by the following standards:
  - a. Enclosure: outdoor storage of finished products and materials for sale should be enclosed on a minimum of 3 sides, screening such products from view from public streets and adjacent residential areas.
    - i. The enclosure should be of permanent construction, should be 100% opaque, and should be constructed of materials consistent with those used for the facades of the primary structures on the property.
    - ii. Materials which are located within the enclosure and are intended to be screened from view should not exceed the height of the enclosure.
  - b. Lot Coverage: A maximum of 10% of any lot should be used for outdoor storage.
2. Mechanical Equipment & Utilities: Screening of mechanical equipment and utilities should be governed by the following standards:
  - b. Mechanical Equipment: All mechanical equipment should be screened by vegetation, fencing, or a building feature (such as a parapet).

### Staff Recommendation

Approve with the following conditions:

- Greenhouse #3 may not be constructed as a temporary structure.
- No greenhouses stay up year-round. They are temporary structures.
- Stone access to the backup inventory area must be at least 15' from the east property line. (Stone requires BZA approval.)
- Backup inventory area must be screened by a 6' wood fence. Straw trailer must leave property, as this would be visible above fence. (A fence taller than 6' requires BZA approval.)
- No business activity may occur in state road right-of-way.
- Pump must be removed from the storm sewer
- No product may be placed for sale in the ADA parking spaces.
- Petitioner must get improvement location permit for placement of stone and concrete.
- Petitioner must get fence permit for fencing. A signed boundary survey will be required.
- Any new signage requires a sign permit. If sign complies with Planned Business Design Guidelines, permit may be staff-approved.

Pritchard asked Hassett to restate the dates the demo permit was issued and site plan submission. Hassett stated a demolition permit was issued in December 2017 along with the temporary greenhouse permits allowing the greenhouses to be up between April and November.

Romack asked if the back of the greenhouses are squared or angled (as the diagram indicates). Hassett stated the angled back ends is what the Petitioners submitted. Pritchard asked where the property line falls in relation to the rear corners of the greenhouses. Hassett stated the property line is measured out on the site plan and is about 10' off the rear of one greenhouse and 11' off the rear of the other.

Eichhorn asked if a boundary survey was done. Hassett stated that it had not been finalized as yet, but petitioners have been working with a surveyor.

Hanna asked if the adjacent property was all owned by the school and if there was any development or use on that or was it just land. Hassett responded the adjacent school property was just land.

Mr. Ridenour addressed the board and provided a printout of their site plan to each board member. He introduced himself as the founder, owner and operator of R&R Market for 43 years. Stating last August they were thrown into chaos and had to scramble to figure out a way to survive. After meeting with the school, the school would not continue their lease with R&R, forcing them to where are currently, indicating R&R has been basically cut in half, lost greenhouse storage, lost 15 to 18 parking spaces, lost the area to sell trees and bushes and the distributed site plan is what they are left with.

Pritchard asked if the rear of the greenhouses are within the property setbacks. Ridenour indicated the greenhouses have the squared backs and a total depth is 54' for greenhouse #1

putting the back corner maybe 15' from property line. Hanna asked if 15' was what the requirement is. Hassett advised it was 20'. Pritchard asked the same of greenhouse #2. Ridenour indicated he thought it was 26'. Pritchard asked if the trusses were at 6' and Ridenour said they were.

Pritchard moved on to the stone indicating that he understands the house was torn down and they put stone down for construction and the greenhouses currently sit on the stone and asked if that was for drainage. Ridenour said yes.

Pritchard asked about the area market Outdoor Sales and if that was currently stone. Ridenour said it was.

Pritchard then asked about the pump in the common swell or drain for the school and the highway. Ridenour explained that there is an underground spring that runs through there, explaining that the school has to run a couple of pumps 24 hours a day to keep their tunnels dry because the spring has broken thru them. Pritchard asked if the pump was in use in that ditch prior to the house demolition and Ridenour said it was.

Hanna asked if the greenhouses were constructed in a way that you would normally take them down in winter and put them back up. Ridenour stated they were constructed for a permanent setup.

Ramey-Hunt asked how many parking spaces they have now. Ridenour advised about eleven, with four or five of them on the road right-of-way. Romack asked if this commission had jurisdiction over the state right of way and Christenson said no. Romack asked if it would be up to the state to come ask R&R Market to move whatever was on the state right of way and Christenson said yes. McClintick adding that typically permission is asked of the state before putting anything there.

Romack asked about plans for the fence. Ridenour stated the fence was currently on hold and that the school has stated they will be putting up a chain link fence. Pritchard asked if the school has applied for a fence permit and Christenson advised they had not and that a chain link fence would not satisfy the Planned Business Guidelines for screening. Romack stating that the school would have to put up a board fence in order for R&R not to need to remove the trailer from the property. Christenson indicated that the school can put up whatever type of fence they wish because they are zoned institutional, so they don't have to adhere to the Planned Business Guidelines, adding a fence higher than 6' would need BZA approval.

Romack asked Mr. Ridenour if he put in footers for the greenhouses that would make them permanent and did he contact the town to see those footers as he put them in. Ridenour said he did not contact the town to see them as he put them in but added that Jeff Barger saw the forms. Barger stated that he saw the forms but the greenhouses are temporary greenhouses and went on to state that he knows they have been up for years out there but we cannot issue a permit to put up temporary greenhouses twelve months of the year. They are not made for that and for liability reasons the town cannot permit it. Barger added the greenhouses have to have an engineer's stamp indicating they are rated to do that. Ridenour responded to Barger's statement indicating that Ridenour did receive engineering documents from the manufacturer stating that those can be put up permanently. Pritchard said he appreciated that information but

that this is what the town guidelines are for. We have temporary structures and we have permanent structures that are buildings with foundations making them a fixture versus of a temporary structure.

Pritchard suggested Mr. Ridenour might consider taking down a space to get within the setback requirements. Remove one truss. Indicating the Board is trying to work with the petitioner and he understands R&R Market is landlocked but the Board can't do anything about the fact that Ridenour has had a piece of property for fifty years and that's all the Board has to work with since the school has pulled back.

Hassett stated that for the temporary structures, the Town issued permits knowing they would not fall within the setbacks. Greenhouses #1 and #2.

Eichhorn asked if there was a recommendation regarding the stone access being 15' away from the property line and is that even possible. Hassett indicated it was not possible with the greenhouses there. Eichhorn clarifying further that the greenhouses have to be 25' off the property line and then 10' of space for the drive. Hassett indicated that those are the Planned Business Design Guidelines, but added that the Board has the authority to waiver from that if the Board sees fit.

Regarding the stone driveway, Hanna thinks the Board needs to consider that the adjacent property is not developed at all and that part of the setback requirements are to protect the adjacent properties which might be a consideration in this situation.

Pritchard asked if the school is working with Ridenour, going on to summarize that it appears the school has taken out the trees and tried to clean it up. Christenson shared that it is her understanding that the commitments that had been made between the school and the Ridenours had been met, adding that we should be mindful moving forward that there was an encroachment situation.

Ridenour asked if it is the Boards suggestion that he needs to reduce the size of the greenhouses. Pritchard asked the Planning staff for confirmation that currently the greenhouses are not back far enough from that corner. Planning staff confirmed. Pritchard went on to indicate that if Ridenour would take one truss out he would be close to that 20'. As far a greenhouse #3 goes, the Board would have to look at #3 and that stone area there. Pritchard agreed with Hanna's statement about giving consideration to the fact that it is only land that is immediately adjacent to the R&R property line. Romack added that if they are temporary structures at this point in time they don't have to meet the 20'. Hassett restated that they were permitted as temporary structures that could go beyond the setback. Romack went on to state that they don't have to change the greenhouses if they temporary. Hassett said that was correct. McClintick added that there remains concern about greenhouse #3 potentially blocking vision at the intersection. Christenson added that planning staff did not feel comfortable giving staff approval to a temporary #3 and that, at the time of application, greenhouse #3 was not on that application. Christenson stated that the Board has the authority to approve it.

Eichhorn asked about greenhouse #4 and staff thoughts on that. Christenson stated that greenhouse #4 is the lean to that was pre-existing.

Hanna asked how the backup inventory area was accessed, asking if there was a fork truck. Ridenour advised there was a fork truck and that there is no other way to get that inventory out. Hanna asked if the stone driveway needed to be as wide as it is in the plans and Ridenour advised it was as narrow as he could get it. McClintick asked if Ridenour was still thinking of using it for employee parking as well and Ridenour said yes, since he lost so many parking spaces and a lot of staff has to park across the street.

Pritchard addressed the straw trailer, its location and height. Ridenour indicated that the trailer has been moved to the shed next to the backup inventory. Romack adding that the trailer is licensed so it is allowable, but needs to be screened. Hassett confirmed. Ridenour shared that he originally wanted to replace the trailer with a Conex storage box and was told that it is not allowed to have a Conex storage box for more than seven days. The Conex box would be shorter than the trailer and easier to get in and out of. Ridenour added that there are Conex storage boxes on other properties in town that are beyond the seven day limit. Hassett added that the Conex storage box is dealt with under the Code of Ordinances and that is not something that the BZA or the Plan Commission has any jurisdiction over. Christenson added that it would require an ordinance change by the Town Council and there would be two readings associated with that. McClintick indicated the new Conex storage box on State Road 67 is to sell Memorial Day flowers and it is temporary. Romack understands that the permit is only for seven days and McClintick responded that one slid through, adding that he did notice another one last week that looks like it was slid in behind a fence and is partially visible and it will be addressed.

Pritchard said obviously the fence is not going to be erected high enough to hide the trailer from the school, asking if there is a way to build a lean to or move the straw to #4. McClintick added that is also something that could be addressed by the BZA. Romack added that it is possible that the fence the school builds, because the elevation is higher, might cover the trailer. Ridenour indicated that a 6' fence wouldn't cover it even if it's on the bank. Christenson indicated that she has concerns about relying on the school to build a screening fence for storage that is not their storage. Intermill added that even if the school did put it up and then a new Principle or Superintendent or School Board says take it down, we are right back to here, so we cannot count on a neighboring property to bring the subject property into compliance.

Eichhorn suggested that they work through the staff recommendation bullet points.

Pritchard asked Mr. Ridenour if he had anything else he wanted to add first. Ridenour indicated that he wanted to add a greenhouse in the front of the garage, to help accommodate for what we had lost, in front of what is indicated as the Greenhouse Entry. One that the town would consider temporary. Pritchard asked if it is addressed in the site plan and Ridenour said it was not, but he had an additional drawing he presented to Pritchard for the board to review. Hassett interjected that the third temporary greenhouse on the patio has already been approved. Barger added that the difference is that the third one is going to be attached to a permanent structure so the day Barger visited with Ridenour, that was where they started, and that is why the town backed off because it appears that it was very nice but was it homemade, asking where that came from. Ridenour advised it was custom made to fit the area. Barger asked if it had been rated and Ridenour advised it was over kill. Ridenour reported that now he has had it redesigned and it is not attached to the structure. Barger said okay and that that makes it simpler.

Ridenour then added another problem now that the property has been reconfigured is there is a solid wall of studs with metal on it. He wants to take that metal wall down so we can view the activity to our right since the view is currently blocked. The metal will go back up once the greenhouses are taken down. Pritchard asked Mr. Ridenour to hold onto that topic until they work through the staff recommendations on the items already discussed.

- Greenhouse #3 may not be constructed as a temporary structure. Pritchard shared that the Board is in agreement with that. Ridenour said he would cross that out.
- No greenhouses will stay up year round. They are temporary structures. Ridenour would like to see about getting that changed to permanent and Pritchard closed by saying that would be a different meeting and process.
- Stone access to backup inventory must be at least 15' from the east property line. Stone requires BZA approval. Currently there is no space. Hanna wondered if there would be any chance the school might give them an easement so they satisfy the set back. Christenson indicated that the Ridenours could approach the school about it. Pritchard felt that was similar to asking the school to erect a privacy fence and should leave that alone. Pritchard asked, if necessary to fix it back to 15', would he be willing to remove a truss. Ridenour said he would do that this year and then he will close up. McClintick added that taking the truss out would allow the drive to be 15' off property line. Eichhorn adding there is no way they can comply with that.
- Back up area must be screened by a 6' fence. Pritchard reviewed that Ridenour would need to put the screened fence on the R&R property, so they need to apply for a fence permit and apply to the BZA for a height variance above 6'. Mrs. Ridenour asked where the solid fence needed to go. Christenson advised that it would need to hide anything that is storage related. Adding, if the school is putting up a fence there would be no way for you to squeeze in a foot between their fence and your building, so it would make sense that corner of lean to greenhouse #4, 1'1", that is where the fence could start and go to the back corner where the straw trailer is and then go around the corner. Christenson showed Mr. and Mrs. Ridenour on their site map. Reiterating that is their staff recommendation, to screen all storage, unless the Plan Commission does not agree with that, but as staff that is the recommendation according to the design guidelines. Pritchard address Mr. Ridenour that when he applies for his fence permit and the boundary survey, the board would ask him to note how far he is going.
- No business in the state right-of-way. Hanna adding that really isn't our jurisdiction. Pritchard asked that Ridenour keep the right-of-way area as cleaned up as possible, which Ridenour agreed to do. Intermill clarified that while the commission doesn't have jurisdiction over the state right of way, it is fair for the commission, as part of a commitment for approval, to say that the staff recommends that no business be conducted on the state right-of-way. Adding that we couldn't go out and issue an ordinance violation, but if that is a condition for approval of the site plan, and business activity is going on out there then the planning director can go out and address the situation. Mrs. Ridenour asked for clarification on what is considered business activity. Pritchard referred back to a picture showing toys and or fireworks is what is referred to as conducting business. Christenson reminded that on the Ridenour's submitted site plan they have noted that they would like that to be their semi-truck unloading area. Romack asked if it was mentioned that R&R could ask the state for permission to utilize that area. Intermill said yes, that it is owned by the state. Christenson clarified that they could have an agreement with the state for that activity to happen there and that there



are parking areas in the state right-of-way as well that have been striped. Pritchard reiterated one of Ridenour's to do list was to maybe approach the state and get that approved. Intermill mentioned part of the issue with the parking spaces is that the parking spaces that are there are to help with the required number of parking spots that have to be there for the business, but if the state says no you can't park there R&R will have fewer parking spots than they need.

- Regarding the pump, Pritchard asked if the pump needs to be there year round. Ridenour advised it only needs to be there during plant season when the greenhouses are in use and that is state property. Hassett asked if the pumps pump from the storm sewer drain and Ridenour advised it is an underground spring and not a storm sewer drain. Barger advised that the spring runs through the 38/67 storm sewer drain. Ridenour indicated that 38/67 has their own drainage.
- Pritchard stated no product may be placed for sale in the ADA parking spaces and Ridenour agreed.
- Pritchard restated the Staff Recommendation that petitioner must get improvement location permit for placement of stone and concrete, asking if petitioner had more stone or concrete to put down. Ridenour indicated he did not. Christenson added that no permit was applied for the stone that has already been put down, so it would be a retro permit that is needed. Pritchard asked petitioner if he could apply for that needed retro permit and Ridenour said he could. Ridenour added that since the stone was on his property he didn't think a permit would be needed. Pritchard said he understood and asked him to please address that with the planning staff to get a permit for the concrete and asphalt placement and suggested that they draw that out, even if it is just with a highlighter on their site plan. Mrs. Ridenour indicated the staff told them they didn't need a permit for the asphalt. Hassett indicated that was correct and not needed if it is repair of existing asphalt. Pritchard said that it would be needed for the additional stone that was added.
- Regarding the fence permit, Pritchard said that had been addressed earlier.
- Pritchard asked if they were doing anything with the R&R sign currently and Ridenour reported that it was going to be removed and he probably would not mess with any new signage. Romack asked if the sign could be grandfathered since it has been there so long. Christenson advised that would be between Ridenours and the state since that is state property and the town has no jurisdiction over that. Ridenour added that is an area they are no longer using, so the sign will go away.

Ramey-Hunt asked if there was anything more that needed discussed about greenhouse #3. Ridenour said he would not be putting #3 up.

Intermill added that with all of the items discussed, the board might want to put a timeframe on their completion. Ridenour asked when the fence would need to be done. Pritchard asked if he already had a survey and Ridenour reported they applied for one in October 2017 and worked with a surveying company also in October 2017 but they have not received anything yet. Pritchard suggested to reapply thru the town to get on the docket for the next meetings and to get the boundary survey back so they will be ready for the fence.

Christenson shared that Planning Staff would recommend six months for all items to be completed.

Mrs. Ridenour asked if they would need to go in front of the Plan Commission again for the fence and Christenson advised that it could be staff approved for the 6' and under. They would need to go in front of the Board of Zoning Appeals if wanting taller than 6'. Ridenour said it would need to be very tall fence if the goal is to hide things from the school. McClintick and Pritchard advised that they are only concerned with the view from the road elevation.

Hassett reminded that this is the time for the Plan Commission to give consideration to the screening requirements and how they feel about them as they pertain to R&R. Pritchard stated that the fence is not going to hide the trailer, so either the trailer stays or goes. Mrs. Ridenour stated they were never told them that view of the trailer was an issue, as long as it was licensed and that staff had no jurisdiction as to where we put the trailer and she didn't understand why now it is an issue. Hassett indicated that this is something the Plan Commission can decide if it is an issue or not, advising the board that it is licensed with air in the tires and it is road ready but it is intended for storage purposes. Romack asked if the board can say it is okay to leave the trailer there based on those rules. Hassett advised they told the Ridenours that it was okay that they have it on site because our code of ordinances does not prevent you from having a trailer like that, licensed with air in tires, but planning thought it was now appropriate to bring it to the board since this is a change to the site and it is a site development issue, so the board can determine this. Mrs. Ridenour asked Pritchard if he has suggested they put the straw in greenhouse #3 or is that third greenhouse off the table. Pritchard said that had been a suggestion but at the time he didn't know if there was space available in one of the greenhouses or space available to build another one. Intermill cautioned opening the opportunity to get around outdoor storage by having a series of licensed road ready trailers that they put their outdoor storage on. Stating if it is outdoor storage it is outdoor storage and it should be addressed as such. Romack stated the town has other outdoor storage that is not screened. Intermill advised that is an enforcement issue and Romack agreed but we are trying to make him concur to those laws yet we don't make others. Stating that it makes it hard as a Plan Commission to enforce some of these items. Intermill responded that he understood, but the analogy is everyone else is speeding but you get the speeding ticket. That is not a defense. The fact that there might be compliance issues throughout the town shouldn't affect your consideration of this particular application.

Eichhorn asked if the board is agreeing with all of the staff recommendations. Pritchard said that Mr. Ridenour is in agreement as well. Eichhorn asked if he would have to eliminate the stone access drive and Romack asked if the board was going to ask him to make the trailer leave the site. Pritchard said Ridenour would have to put the fence up regardless to screen the backup inventory and asked if they can conditionally approve the trailer until they get the fence up and then it can be readdressed. Pritchard adding that the trailer is 13' high and that is only 3' over and the property gains elevation as it goes towards to the school. Hassett advised that in this situation she felt that a variance from the screening requirement to be higher than the trailer is appropriate because of the site conditions, the way the school is elevated and the school is going to see the trailer regardless, so in this situation the board should allow the top of the trailer to poke out. Pritchard agreed and believes Mr. Ridenour is in agreement to apply for the fence and put it up. Mrs. Ridenour stated they would not be able to have a driveway to the straw trailer and backup inventory with the fence there since the driveway needs to go away. Christenson advised the staff recommendation was that the driveway be at least 15' from the property line, however, as the Plan Commission, the board can waive that and say it can go along the property line if that is what the board thinks is appropriate. Hassett added that the material

would need to be approved by the BZA if they want to use stone but if they use concrete or asphalt it would not require BZA.

Pritchard indicated he felt all were in agreement with the items and asked Ridenour if he was in agreement as well. Ridenour said he would like to review everything.

Staff Recommendation Review:

1. Greenhouse #3 shown on Site Development Plan may not be constructed
2. Temporary greenhouses cannot stay up year-round. They are temporary structures.
3. Drive to the backup inventory area as shown on the Site Development Plan was approved. However, if stone will be the surfacing of this drive, the petitioner will need to get approval from the Board of Zoning Appeals following submission of a Variance Application.
4. Backup inventory area as shown on the Site Development Plan must be screened by a 6' wood fence.
5. No business activity can take place in the state right-of-way.
6. The pump must be removed from the storm sewer.
7. No product may be placed for sale in the ADA parking spaces.
8. Petitioner must get an improvement location permit for the stone and concrete work that was completed this year prior to May 9<sup>th</sup>, 2018 Plan Commission meeting.
9. Petitioner must get a fence permit for the fencing. A signed boundary survey will be required.
10. Any new signage requires a sign permit. If petitioner would like a sign in the future and the design complies with the Planned Business Design Guidelines, the permit may be staff approved and petitioner will not have to go through the Site Development Plan process.
11. Petitioner has six (6) months from the May 9<sup>th</sup>, 2018 Plan Commission meeting to follow through with the above mentioned commitments.

Pritchard asked for audience comments.

Suzanne Novack asked why they couldn't have the greenhouses up year around and asked if it was too unsightly to have them up year-round. Pritchard said the greenhouses are built in such a way that they are temporary structures, such as a tent. They are not permanently anchored with a foundation with block and mortar as a building. Town requirement indicated that temporary structures are allowed from April to November and that if Mr. Ridenour decides one day to build a building and pour footings and erect a building on that site then that is a permanent structure and a whole other process. Ridenour would then come in and propose a site plan and a building plan, a layout and a survey etcetera for approval. Novack added it is very hard to put them up for temporary use and it would be hard to take them down again. Novack added that she feels the town is making it disappear, like everyone is against them, but that they are very nice people and the people are going to lose their jobs and its okay to have the one across the street and no one complains about them because its temporary, and she said she is angry because she believes everybody is against them. Barger indicated that the town required the one across the street to bring us documentation from an engineer, just like what was asked of Mr. Ridenour, adding that the structural elements are not made to stay outside all year-round. Those structural elements are not like your house where you have a permanent foundation. That is not a town choice it is what the structure was made for. It is a

temporary structure and that is why it has to come down. Mrs. Ridenour added that they have an engineer's statement. Barger indicated he has not seen an engineer's statement, but when those buildings were originally built, Mr. Ridenour said their family put them up and took them down and put them up. Mrs. Ridenour indicated they didn't put these up the same way they did thirty years ago, they put them up so they can be permanent structure and they have an engineer's statement that says that.

Pritchard said that we defined tonight that they are temporary structures. The fact that the Ridenours want to leave them up and there is an engineer's statement, he suggested that they submit that going forward if they want to try and do that, but that is not the issue for tonight. Christenson said that would be back through the Plan Commission. McClintick added that if you start putting permits for permanent structures then that effects setbacks and separations. Pritchard indicated if the Ridenours want to submit these as permanent structures, it is going to be a different submittal and review and meeting process, which the board and planning are happy to do. Ridenour shared that they don't make greenhouses with footings or foundations. Pritchard said he understood that but it is the difference between a temporary structure and a permanent structure. There is also something called the Indiana State Building Code, which most towns and municipalities refer back to. Christenson added that another issue with the temporary versus permanent greenhouse structure, there is a setback issue. Planning approved them being within the setback area only because they are temporary. Planning would not be able to do that if they were permanent.

Barbara Hensley addressed the board stating they have been R&R customers since there was an R&R. She asked Mr. Ridenour how many years they leased from the school, who advised they never had a formal lease agreement until about eighteen years ago. Hensley asked him why the school decided not to renew the lease. Ridenour said because this lady here, as he pointed to Christenson, sent them a letter. Christenson advised that the lease had been expired for two and a half years at the time the letter got sent to the school. The property, zoned institutional, having a business use on it, was not allowed by our zoning ordinance. Hensley said then for eighteen years it was illegal. Christenson added that she couldn't speak to what happened prior to the current Planning Staff being in our current positions, but according to the town's rules and regulations, that wasn't an approved use. Hensley asked when the current town's rules and regulations were set, and went on to point out that at their ages of 80 and 76 they have seen so many changes in the world and everyone on Facebook asking why we can't go back to the old days when we didn't have all of these rules and regulations. She added her husband worked for the City of Carmel and we saw how they made sure that all of the signs were so and all the houses look a certain way and everyone lives in a community where you have to have all the same color, all these things that we brought upon ourselves, adding more and more rules and regulations and changing more and more laws, makes her stop and think what it was like when we lived in caves and were just cavemen. Adding that this seemed to be a nice business and then all of a sudden it is being taken down to this tiny space and then these poor people have to go through all of these rules and regulations that all of us now have to live under because we have created this monster and that she feels badly for anyone that has to go before all these boards and the board members have to come to all of these meetings and make all of these decisions that affect people's lives in sometimes a very serious way and it doesn't make sense to her how they could be having a wonderful business the whole community has come to and loved and then all of a sudden, for whatever reason, with rules and regulations, it has changed so dramatically that it is sad. It has to do with lawyers and lawyers

are the ones that are running our country because most of the people in Congress are lawyers and the laws keep adding and adding and she thinks they should be required to remove ten laws before they are allowed to pass one new laws because there are so many laws and they are so crazy.

Intermill spoke to clarify two things. On the school issue, according to Mr. Ridenour, if he has been using that forever, formal lease or not, our ordinances were adopted in 1997 give or take, it would have been a pre-existing non-conforming use, as far as the business on an institutional. That is one issue. Whether the school decides to allow them to continue utilizing the school's property is separate. The town does not have any control over what the school does with it's property. That is not a law or a town ordinance or a town rule. That is just a property owner deciding not to allow someone to utilize their property any more. It is a landlord-tenant issue and it is not a town issue. Hensley asked if it was the school board that decided that and Intermill replied he did not know. Christenson added that the school board could have chosen to go to the Board of Zoning Appeals to get a business use on that property for the Ridenours. McClintick added that the town was requested to try to get that area cleaned up but since it was school property we had to send them the letter. Christenson said towards the end of 2016 the Town Council passed what is called the Unsightly Premises Ordinance which allows violations to be issued to properties that may be unsightly. Planning staff starting working on Planned Business Zoning Districts, even though it was a blanket ordinance that covered every zoning district within the Town of Pendleton including residential. When planning staff looked at the Ridenour's business, part of their business was on school property, so that was a first step for us was making sure that they had their business on their own property, rather than encroaching the school's institutional zoned property. We did not issue an unsightly premises violation to Ridenours at all during this process although we did have complaints from citizens and from the school. That is where this process started. Planning did issue the school a violation letter because there was planned business activity happening on their property which is zoned institutional and that use is not allowed in institutional. Hensley asked if staff let the school know in that letter that they had the right to allow them to be there if they went to the Board of Zoning Appeals. Christenson advised that they let the school know they could work with the Board of Zoning Appeals to have that approved as non-conditional use, however, the school chose not to go in that direction. The school worked with Ridenours to come up with an agreement to have Ridenour's business phased off of their property, setting three deadlines set for over the course of six months or so, to allow them to finish up their Christmas tree sales and cease business activity at that point on their property, with the next phase removing moveable fixtures and that deadline we believe was January 1<sup>st</sup> and a final deadline to get everything else removed and the property put back to grass by May 1<sup>st</sup>.

Hensley then asked if there was talk by anybody for R&R to leave there and someone else could do something better or more attractive in that area. Christenson asked her what she meant by 'leave there'. Hensley said where Ridenours have their business. Christenson advised she was not following Hensley's question and asked if she could repeat it. Hensley said that if people were complaining about how it looked maybe they were hoping they would move out and get someone else move in that is more attractive. Barger indicated that as far as the speculation that the Town had someone else interested in that property, the Town absolutely has not been approached by anyone interested in that property. McClintick said they also met staff and council members and the school and the Ridenours at Town Hall after that agreement had been signed and they tried to work out something, but the school board came back with the same

answer. Intermill reiterated that issue of the school's property and the Ridenours is not a Town issue. The Town tried to act as a mediator, for lack of a better term, to try to help the situation, but that is completely out of the Town's hands, whether it is the BZA, Planning Staff, the Town Council. Intermill said that even cavemen would beat another caveman out of their cave and would have the right to do that and that is what this issue is, it is between the school board and the Ridenours and the Town does not have any authority to intervene in that action between two property owners. Hensley said but the Town likes the idea that this is a small business that has been here forever and everyone loves and it make your small town really beautiful. Christenson agreed adding that its character. McClintick added that he wife just purchased their ferns there last weekend. Hensley said everyone will miss it. McClintick added his wife goes out there every year, adding that the Town is not trying to put them out of business, although he knows it might seem that way. Hensley adding that Facebook made it seem like there were some people that wanted to put them out of business. McClintick shared words of advice to not to believe everything you read on Facebook. Pritchard adding that Facebook is similar to internet and it is not all true. Pritchard commented on Hensley's Carmel comparison adding that Pendleton is experiencing a tremendous amount of growth so, with that said, that is one of the reasons why we have the boards and the rules so we can protect people and our businesses so we can control what goes on and what comes forward down the pike. Christenson added that if this was reversed and a business was encroaching on Ridenour's property the Town would be doing the exact same thing. Ridenour said the Town keeps using the work encroaching, but they had a lease. Christenson said that had been correct but the lease had been expired for two and a half years so at that point it becomes an encroachment. Ridenour agreed but that it had expired many times before and Christenson said that was not any of the Town's business.

Dan Taylor addressed the board stating that it appears the board has their hands are full and they are making the best decisions that they can but with all he had heard there were a couple of things that stood out in his mind. Regarding the fence issue and the storage, he asked what is the difference was between what Ridenours have and what Speedway does in their parking lot with their mulch and salt with no fence around it, along with other businesses in town that put their stuff outside on the sidewalks and no fences. He also stated that he enjoyed the speeding ticket analogy and he understands that all of that is going to stop today and we are going to make the Ridenours do what is right, but then next week what will happen. When Rachel and the administration comes in, that's all fine, but there are things in the past that are still there that are not right. He is in hopes that the board will take all of that into consideration when making their decision on what they are going to make the Ridenours do to get to where they need to be. He feels like planning could have maybe been more helpful to them in the beginning. He knows the county's take on everything is that it's your responsibility to make sure everything is the way it's supposed to be, but it sounds like issues that have been brought up that could have been addressed six months ago, so possibly more proactive would have been helpful. McClintick advised that it is documented that they have been working with the Ridenours since September, so this isn't just happening now. Also added that it isn't the type of storage being talked about. Ridenours will still be able to have skids out front, roughly 20 skids out front, so that is not what is being discussed. Christenson also advised that the Town has a very good planning department and these are the rules and regulations that the Town has given to planning staff to enforce and to regulate and so they are doing their jobs, adding that if there are things that the community doesn't want, the appropriate place to say this would be to these boards and commissions and Town Council. Those are the ones that enacted these rules and regulations. The planning department is the one carrying them out. Adding that the planning staff is thorough

and they do a good job. McClintick added that this matter has not been fun for anyone. Christenson added that there has been a lot of staff time spent on this project. Romack added that planning and the Plan Commission are making exceptions to the rules and variances to try to accommodate the Ridentours to stay right where they are. There are some things that we are unable to accommodate but we are making exceptions to those that we are able.

Pritchard thanked everyone for their comments. Then asked if the changes to the staff recommendations were documented. Christenson said they were and asked if they wanted her to review them with the board. Ridenour said he was clear and Christenson added that she would get him a copy of the final changes.

Ridenour wanted to bring up his earlier question about removal of siding to help with visibility of the greenhouses and asked if he could take that down and put it back up after they take down the greenhouses. McClintick advised he felt that would need to go through Jeff Barger, the building inspector. Pritchard suggested that Ridenour give Barger a call before they do it. Barger added they could do that through a staff approval.

Intermill advised Pritchard they do need to vote on the staff recommendations' third bullet point allowing the drive to be on the property line and allowing the fence to be a six foot and not worry about visibility of the trailer because of the height of the school property and also the six month timeframe. All else as staff recommended.

**CAROL HANNA MOTIONED, SECONDED BY CHERYL RAMEY-HUNT, TO APPROVE PC05092018-01 AS AMENDED ON THE THREE ITEMS, AS AGREED BY MR. RIDENOUR, AS PRESENTED. NO OPPOSITION. MOTION CARRIED.**

Pritchard called a ten minute recess to reconvene at 9pm.

**PC05092018-02 : Falls Park Plaza – 1 Plaza Drive**

Hassett gave a presentation on Google Drive. Chuck Clevenger is the applicant and property owner, but GVC Mortgage has been heavily involved as a co-applicant and lessee of a good portion of that property. Bradley Voyles, owner of GVC Mortgage, included a letter detailing the changes they would like to make to the site at Falls Park Plaza which included relocating the dumpster located on the North end of the complex, new siding for the ends of the buildings to replace the current vinyl siding, installation of speed bumps throughout the parking lot and remove and relocate 6 front doors.

Hassett included a couple of site maps on where the property is located and what it looks like. It is zoned Planned Business and will be concentrating on the middle area of the property where the majority of the cars are parked.

1. Relocation of dumpster located on the North end of the complex. Presentation Exhibits include A: Dumpster with arrows from its old placement to the new placement. When dumpster relocations occur Planning likes to make sure that it is properly screened and gated. The dumpster has already been moved with the understanding that if the board does not approve the relocation, the dumpster will be returned to its original location. There is a 6' metal surround with a broken gate, however, it would be a condition of approval that the gate be approved.

2. New siding for the ends of the buildings to replace the current vinyl siding. Siding repair will be to the sides of the buildings shown in Exhibit B: Siding. The new siding will be a composite product and Mr. Voyles brought a sample this evening to show the board.
3. Installation of speed bumps throughout the parking lot between the two GVC buildings.
4. Remove and relocate 6 front doors to help eliminate entry confusion

#### STAFF FINDINGS

1. Dumpster Relocation
  - a. Hassett reviewed the Planned Business Design Guidelines and recommended:
    - i. Location – Approve
    - ii. Position – Approve
    - iii. Material – Approve with Condition : Petitioner must add trim detail around top and bottom of dumpster enclosure and gate must be repaired.
2. Siding Replacement
  - a. Hassett reviewed the Planned Business Design Guidelines and recommended:
    - i. Boral TruExterior Siding- Approval with Condition : Petitioner shall apply material in shingle, verge board, or other detailed pattern in gable.
3. Speed Bump Installation
  - a. Hassett reviewed the Planned Business Design Guidelines and recommended:
    - i. Approve
4. Door Removal
  - a. Hassett reviewed the Planned Business Design Guidelines and recommended:
    - i. Approve with Condition : the exterior be sided to match façade where doors are removed.

Pritchard asked if they would have enough exits to comply with the fire codes and Barger advised there will be enough exits to comply.

Vogel addressed the board to provide a siding sample and added they would place trim around the dumpster and agreed to the staff recommended conditions on each item.

MIKE ROMACK MOTIONED, SECONDED BY KYLE EICHHORN, THE APPROVAL OF PC05092018-02 AS PRESENTED. MOTION CARRIED.

#### **PC05092018-03 : Rezone – 110 West High Street**

Christenson gave a presentation on Google Drive. Petitioner Bob Post is applying to have the property rezoned from Historic Residential to Downtown Business. A vicinity map was provided showing this property surrounded on three sides by Downtown Business zoned properties. Two structures on the site include a 1850s house and a 1980s house. Photos of the current structures were included.

Christenson reported there was one piece of public input on this following the notification of adjacent property owners and those within a certain distance from the site, from Jack Wilson, Owner of Solutions for EBiz. His support letter was read aloud, as Wilson was unable to be in



attendance. Wilson's only noted concern was any new hard surfaces that might be put down potentially causing more standing storm water at his property. Christenson reported there are no current plans to do anything to the parking lot area.

#### Staff Recommendation

Approve rezoning contingent on property being added to Pendleton's Local Historic District so the Historic Preservation Commission will be the ones to review all changes to the site. Christenson went on to suggest a favorable recommendation by the board based on the staff recommendations, with the next step to update the ordinance for the Historic Preservation Commission's Historic District. Once that is completed it will go to the Town Council for rezoning approval.

Christenson advised that Post has some permits pulled already but they are for remodel, however, if there are exterior modifications desired, after it is included in the Local Historic District, it will go to Historic Preservation Commission for approval and he will get a Certificate of Appropriateness. Pritchard clarified product approval by the HPC.

Ramey-Hunt addressed Post and asked why the need for zoning change. Post reviewed the work he has done to the building. 1850 is the age of the original structure and pointed out the addition to the house, along with the third addition to the house. Ramey-Hunt asked if he was considering a business at this property and Post said yes and that it could be office or retail.

CHERYL RAMEY-HUNT MOTIONED, SECONDED BY MIKE ROMACK, THE APPROVAL OF PC05092018-03 TO REZONE FROM HISTORIC RESIDENTIAL TO DOWNTOWN BUSINESS WITH THE COVENANT OF APPROVAL VIA HISTORIC PRESERVATION COMMISSION TO INCORPORATE IT INTO THE LOCAL HISTORIC PRESERVATION DISTRICT. MOTION CARRIED.

Next Plan Commission meeting is scheduled for June 13, 2018 at 7p.m.

#### **OLD BUSINESS**

##### Comprehensive Plan Update

Christenson advised the Planning Staff is looking for a Plan Commission recommendation for the approval of the Comprehensive Plan to the Town Council.

KYLE EICHHORN MOTIONED, SECONDED BY CHERYL RAMEY-HUNT, TO ACCEPT THE COMPREHENSIVE PLAN AS PRESENTED AT THE LAST MEETING. MOTION CARRIED.

Meeting adjourned at 9:25 pm.

Kate Edwards  
Planning Clerk  
Town of Pendleton