

The Pendleton Plan Commission (PC) met on October 9, 2019 at 7:00 pm at 100 W State Street, Pendleton, Indiana. The meeting was called to order at 7pm. Commission members present were Kyle Eichhorn, Connie Schultz-Heinz, Carol Hanna, Cheryl Ramey-Hunt, and Brad Ballentine. A quorum was established.

Representing the Town were Planning and Zoning Administrator Kayla Hassett, Assistant Planning Director Rachel Christenson and Planning Clerk Kate Edwards.

Others in attendance were Helen Reske of 845 S Pendleton Ave Pendleton, Garry and Peggy Lyons of 5841 S 425 W Pendleton, Jenny Sisson of 366 Blue Spruce Dr Pendleton, Julie Schnepf of 427 E State St Pendleton and Kellie Borgman of 232 Adams St Pendleton.

MINUTES

CAROL HANNA MOTIONED, SECONDED BY BRAD BALLENTINE, THE APPROVAL OF THE SEPTEMBER 11, 2019 MEETING MINUTES. MOTION CARRIED.

OLD BUSINESS

A. Unified Development Ordinance Update –

Christenson gave an overview of what a Unified Development Ordinance (UDO) is, as presented on Google Drive. She reviewed the Timeline also available on Google Drive Presentation.

Progress made since the September Plan Commission meeting was that Staff reviewed Chapter 2 and had sent revisions to The Planning Workshop. Staff will continue working with the steering committee and providing information to the Plan Commission.

B. Thoroughfare Plan Update –

Christenson gave an overview of what a Thoroughfare Plan is, as presented on Google Drive. She reviewed the Timeline also available on Google Drive Presentation.

Christenson reviewed:

- Three Feet Passing Law
- Vulnerable Road Users Policy
- Right-of-Way Dedication Ordinance
- Interim Functional Classification Map

Planning Staff will take the Plan Commission feedback to MCCOG and they will continue to work with MCCOG on reviewing the Complete Streets Policy and Access Management Control Ordinance.

C. Impact Fees Discussion –

Christenson advised that Impact Fees are specific charges imposed on development for “capital costs” to public infrastructure like parks, roads, or utilities. The timeline so far included the introduction to the Plan Commission on September 11th, the Letter of Support to the Town Council for their discussion on September 12th, introduction to the Park Board on September 2th and continued discussion at tomorrow’s Town Council meeting October 10th.

Christenson shared that the Town Council was very positive and appreciated the PC's letter. They did decide to move forward and dig further into the cost and what types of firms need to be hired for this. It will be discussed again at tomorrow's Town Council meeting.

The Park was approached about partnering with the Town and on the expense of that initial study. They were positive about it as well. They are working on drafting a letter to present to the Town Council in support of the Impact Fees.

NEW BUSINESS

A. PC10092019-01: 5701 S 425 W (Cook) – Rezoning from Agricultural to Rural Residential

Hassett Google Drive Presentation included the Change of Zoning Application, aerial map of the 25 acre property boundary, zoning map of the property, Retracement Survey for BL Riffey Properties, LLC, Staff Findings and Staff Recommendation.

This is being rezoned in order that the house parcel can be split off from the field and sold separately from the field. This is a non-conforming lot zoned agricultural because of the lot size. In order to split it into two lots, to conform with our zoning ordinance. By rezoning to rural residential, which has a minimum lot size of two acres and hooked up to sewer, we are conforming with our zoning ordinance.

There is no future change of use planned by the buyer. The field will continue to be farmed. Note that agriculture will become the non-conforming use of this land. But until it is abandoned for more than one year it may continue to be farmed.

Ballentine ask if the rezoning was just for the two acre tract where the house sits, or is it for the entire 25 acres. Hassett reported it was for the entire 25 acres.

Staff Recommendation Approve

Julie Schnepf reported that this house has been rented for seven years and the owners will be selling the house. The owner had no intention of rezoning the 23 acres because of the potential change in tax base. The owners were just seeking to rezone the 2 acre and get it split off. She added if they get the PC approval today and the TC approval tomorrow, that 2 acre will be sold and the Riffey's will maintain the other 23 acres and continue to farm. She reported that only two neighbors called and, once they heard the plan, they were both good with it.

Hassett informed that, because the parent parcel will be more than 5 acres, this will not need to come before the PC for subdivision approval. This will be the only time that the PC will see this.

Eichhorn asked, after this, they could split the parcel into 2 acre lots. Hassett reported that the parent parcel needs to remain over 5 acres and on existing road frontage, but yes to the balance. Eichhorn asked if we require a right-of-way dedication, because if we don't and we have a right-of-way take, it will become non-conforming again because it will be less than two acres. Staff said they had not considered that for this one.

Eichhorn then asked if there was a way to rezone the house 2 acres and leave the 23 acres zoned ag non-conforming. Hassett advised that since this was changing, she asked the petitioner to consider rezoning the entire parcel. Again, Eichhorn asked if it could be changed so that just

the 2 acre parcel gets rezoned. That way, the PC will have some say when the rest of it will be developed.

Garry Lyons address the commission. He shared that they live on the property just south of Mr. Cook's farm and advised that the farm field is a lot higher than the properties to the south. There are four families that flood when there is a hard rain. He added that the road is a one lane road and if another car is met, one has to get into someone's grass. If more residents come, the Town will need to do something with that road. And they would like to do something with the water situation. They have been there for 27 years and grandfathered in with horses. They can get up to six inches of water in their barn. They built up the horse stalls, but everything else, his work shop, everything gets under water. When he asked for help, the Town said that is a County issue. When they went to the County they were advised their water needs to go North along 69 to the County tile. They looked into tiling it to the County drain and it would be \$7,000 dollars. He asked the PC to take all of that into consideration.

Schnepp acknowledged the water concerns. She added the petitioners are not looking to build houses there. They have an existing home and buildings and all they want to do is sell the 2 acres and continue to farm the balance. Hassett advised the PC that if they wanted to separate the house lot from the balance, the balance couldn't continue as ag because the minimum lot size is 40 acres according to the Use Matrix. Eichhorn noted it could be done with a Variance. Christenson advised that when they answer the questions for a Variance, this would not qualify necessarily for a variance. Hanna asked that before any additional lots could be sold, it would have to come before the PC. The answer was no. Hassett noted that these would not qualify as a subdivision as long as the lot meets our lot standards and is on an existing right of way and the parent parcel, which is the field, remains 5 acres or larger. Christenson added these are our current Town rules, so if this is something we need to change in the future in our UDO update, that is where we need to make the changes. Hassett added that the idea behind the current rule is that it makes it fairly simple to come out in an area like this to split off one single or two lots that meet our lot standards and leave a large field or something behind it, so these are more rural related rules.

Hanna clarified that even if the PC doesn't do anything right now, they could still sell 5 acre lots if they chose to. Ballentine indicated 2 acre lots since there is sewer there. Eichhorn said not with Ag zoning. Lyons restated that if this is done now, they don't have to come back before the PC if they start to sell. Hassett said yes, as long as they meet our zoning ordinance requirements. Eichhorn said it looked like maybe four lots max. Lyons restated his concern about an even greater water problem if that happened.

Ballentine asked, with respect to building additional future homes on the road, what considerations need to be made for the roadway, the right of way, and expanding beyond the single lane. Hassett reported that, considering it is a dead end at I69, Planning hadn't considered any improvements to that. Christenson noted that there are no road improvements on the current Thoroughfare plan that would involve this particular stretch of road.

Ballentine asked if there were any minimums for residential access when these rural residential properties are sold off. Hassett said the lot would have to be at least 50% of the required width. It couldn't be just little drives continuing off. There has to be road frontage. Lyons noted that a semi pulled down their road and couldn't get turned around without driving through a neighboring yard leaving a big donut. Hanna added she didn't think a road could be built big enough for a semi to turn around.

Schultz Heinz noted that if we approve as recommended, the PC will not have any opportunity to put controls on the builders, like addressing the drainage issues. Hassett indicated it wouldn't

come before the PC unless it was a major subdivision or that parent parcel got down under the 5 acre requirement. Schultz Heinz said if splitting off and someone was going to build and they have to come to the Town for permitting, would the Town at any time say something needs to be done about the drainage and something needs to be done about the roadway or any of those sorts of things. Hassett reported that the Town would not look at that for the building of a single home.

Eichhorn asked if Staff would support just rezoning the 2 acres and leaving the rest zoned Ag and would that solve the concerns at hand. Hassett noted her recommendation was to rezone the entire acreage because we have the opportunity right now to do that and make a non-conforming lot conforming. Eichhorn noted conforming by size but not by function because this is creating a non-conforming use by rezoning. Hassett said that was correct. Adding this might be something to consider as we update the UDO. Eichhorn noted technically if this field floods out for a year and it doesn't farm for a year then they would be prevented from farming it in the future.

BRAD BALLENTINE MOTIONED, SECONDED BY CONNIE SCHULTZ-HEINZE, REZONE OF THE TWO ACRE PARCEL TO RURAL RESIDENTIAL, LEAVING THE REMAINING TWENTY-THREE ACRES AGRICULTURAL NON-CONFORMING. NO OPPOSITION. MOTION CARRIED.

Eichhorn asked if there were any public comments.

Helen Reske addressed the PC to discuss Impact Fees, stating the areas noted to be effected were Water, Electricity, Sewer, Roads, Sidewalks, Park and Trails, but no mention of Schools. She wanted to go on record stating that the schools will be impacted and that should be figured in. Discussion ensued regarding what Impact Fees can and cannot be used for and clarification will need to be obtained as this moves forward.

Eichhorn asked about the documents on Google Drive related to the drainage at The Falls. Christenson noted that Planning placed those documents on Drive so the PC could review them since there were several questions brought up at the last PC meeting on the agenda item about The Falls. Kayla pulled the Covenants attached to the parcels, particularly the ones with the ponds. It spells out what the roll and responsibility is of the property owner. Planning also talked with Madison County Soil and Water Conservation District about The Falls and if they had been doing inspections routinely. They said they had been. They will be emailing over documentation of their inspections and they indicated they were scheduled to go over tomorrow to take a look at it. Planning asked specifically about posting the SWIP plan that Kyle had asked about and the NOY. She said they are not sticklers about having those posted. With no construction trailer on site, they don't post. Eichhorn had briefly reviewed the drainage report from ten years ago and asked any thoughts to having Banning review that again to make sure they are in agreement because Eichhorn wasn't 100 percent sure about the calculations that were done. Maybe send it to them to see if they would do a high level cursory review to make sure they agree. Christenson said they could take a look at it. Eichhorn also noted he drove by Westport and they haven't put their construction entrance in yet and he thought that should have been first. Christenson said they would also take a look at that.

Jenny Sisson addressed the PC about the Impact Fees and noted it is very specific as to what Impact Fees are ear marked for. Indiana Code 36-7-4 pages 1300 to 1399. Noting they require their own Board, their own specific account to be controlled and audited and, yes, they are only for the utilities and roads and parks and that is it. Schools are kept very separate. She added that she is a fan of the Impact Fees and believes growth needs to pay for growth.

Sisson referenced S 425 W being a dead end and was there a thought based on potential growth in that corridor that we might connect that road to the other side of I69. Christenson said it was not at this time,

but they are working through the Thoroughfare Plan update right now and that is something that would be addressed in a plan like that.

Kelly Borgman, with Friends for Paws, addressed the Commission uncertain if they were the right ones to ask for permission to add a small shed on the back of her property, so police can drop off animals in her absence. Christenson said Planning would work with her through the needed process and if there are different Boards or Commissions that she has to go to get special approvals, Planning will let her know who that is and will walk her through those processes.

Hassett asked Borgman if she would talk about the service she provides the Town of Pendleton. Borgman shared that she lives on Adams Street. Ten years ago Pendleton was contracted with Anderson for animal control and then Anderson decided to cut off their contract with all of the smaller towns to just focus on Anderson. For two years there was no animal control in Pendleton. Eight years ago she rescued a pregnant pit bull around McDonalds and got her into a shelter. The police asked her a couple weeks later if she could help with another dog which they did. And then they decided to start the animal rescue and they have volunteered to do this over the past eight years. Now that she is not a stay at home mom any longer, a key has been left so the police can get access in her absence. Friends for Paws has knocked down the stray cat population here because they spay and neuter. The shed would be beneficial for that reason and allowing the police to drop off animals as needed without giving access to her home. All of this is paid for by donations. She can go without animals for months but then get an animal hoarding case of up to 40 birds, a raccoon, a chinchilla, a bearded dragon. Luckily rescue is a village and they were all safely removed and transplanted into various places. She added that currently the Town is not donating, it is all done through private donations from the area and outside of Pendleton.

Ballentine brought up that he talked with Tim Pritchard about the Newco matter going on in Ingalls. Christenson asked if he wanted to talk about it at this time. He noted since the property is adjacent to the Town of Pendleton and physically touches our border, what is the position the Town of Pendleton, the Plan Commission and the Town Council concerning that industrial development. It is a use type we would not endorse within our community. There are also a lot of open questions on what the plant will do to air and water quality that could potentially impact the South Madison Community. Understanding it is outside of our jurisdiction but an impact statement can be made by the Town of Pendleton and presented to the Town of Ingalls noting our concerns and importance that due diligence be done and the potential impact on our community.

Christenson did want to clarify that when she and Ballentine spoke about the Use Matrix and smelting was not an acceptable use, the letter that came out from Newco said it was not a smelting plant. So, she wanted to make sure that Planning Staff is being clear that smelting is not an appropriate use based on our Use Matrix, however, it was reported by Newco that this is not considered smelting. Discussion ensued as to what is considered smelting and Eichhorn noted according to the EPA what Newco would be doing would be considered secondary smelting. The adjacent Pendleton property is zoned Planned Business which is light business and definitely not industrial.

Eichhorn felt, from their standpoint, there could be a discussion at the Town Council meeting tomorrow, so the PC can issue a formal opinion from this commission. Christenson advised this topic is already on the Town Council agenda for tomorrow night. Conversation ensued about Alex Intermill recusing himself on this matter since he is representing Newco. Schnepf agreed with Ballentine's points on this matter and appreciates that the PC is going to present to the Town Council tomorrow night.

Eichhorn noted that, without making a scientific evaluation, we can look at it from a Use standpoint and issue a statement that it is incompatible with all surrounding use in Pendleton and recommend not granting the variance based on zoning and impact to the community. Ballentine adding that it is not only Pendleton but the entire South Madison Community and a number of communities surrounding it. He went on to note that based on official Indiana reports, no one seems to be able to locate them to acquire

accurate information in IDEM and what the actual particulate material will be with that type of facility, the height of the cooling tower, all of those things that will potentially impact residential health, property values, ongoing development are all things the PC needs to make a position statement on to represent the residents of Pendleton the best they can, even if they don't have immediate control, they at least participate with Madison County, Anderson, the adjoining communities trying to steer South Madison in a good compatible direction beneficial to all residents.

Schultz-Heinz noted she was appalled that the Town Council President issued the statement that it was not our problem, when we should be rallying with Noblesville, Fishers and all the surrounding area that would be impacted. Christenson felt it was on the Town Council agenda for discussion so the Town Council can come together and determine how to move forward.

BRAD BALLENTINE MOTIONED APPROVAL OF PLANNING STAFF TO GENERATE A STATEMENT TO TOWN COUNCIL RECOMMENDING THE TOWN MAKE A RECOMMENDATION TO TOWN OF INGALLS VOICING OUR OPPOSITION TO THE NEWCO SMELTING PLANT FOR THE AFOREMENTIONED CONCERNS. SECONDED BY CONNIE SCHULTZ-HEINZ. MOTION CARRIED.

Meeting adjourned at 8:15pm.

Kate Edwards
Planning Clerk Town of Pendleton