

## I. CALL TO ORDER

The Pendleton Plan Commission (PC) met on February 1, 2023 at 7:00 pm at 100 W State Street, Pendleton, Indiana. The meeting was called to order by Tim Pritchard at 7:00 pm.

## II. ROLL CALL AND DETERMINATION OF QUORUM

Commission members present in-person were Tim Pritchard, Brad Ballentine, Kyle Eichhorn, Carol Hanna, Cheryl Ramey-Hunt, Jenny Sisson, and Andrew Holloway. A quorum was established.

Representing the Town in-person were Hannahrose Urbanski Planning Director, Denise McKee Planning and Zoning Administrator, Scott Reske Town Manager, Jeff Graham Town Attorney.

- Others present: Marissa Skaggs Town Council President, Chet Babb Town Council Member, Willie Boles Clerk-Treasurer, Jason Gaines of Gaines Development, Ed Wolenty of Decker, Lawyer and Maynard, Chris Farrar of Woodside Capital representing LKQ, Garry Brammer of 6228 W Foster Branch Dr, Jessica Bastin of 331 Pearl St, Thomas Bond of 6150 S Fox Ct, Rachel Christenson of 300 S Broadway St, John Lord of 6982 Lakeview Ct, Jeanette Isbell of 354 Pearl St, Jerry Burmeister of 406 W State St, Michael Wright of 6395 S Fox Chase, David Cloud of 634 S Fox Chase, Mike Bluel of 6221 Foster Branch Dr, Cathy Pasko of 433 E State St, Mark Farrer of 5429 W 132, Sam Karozob of 12890 Main St, Tammy Bowman of 130 N Main St, Joe Noel of 130 N Main St, Craig Campbell of 239 S Main St and Redevelopment Commission President and Historic Preservation Commission Vice-President, Doug Hinline of 6739 S 600 W, Jan Stamper of 7242 S 600 W, Jennifer Roberts of Pendleton Ave, Bryan Williams of Water St, Bret Swinford no address provided, Spencer Groby no address provided, Leah Groby Real Estate Pros, Nathan Davis of Imagination Station, John Higgins attorney representing Pendleton Development, Marc Farrer Pendleton Police Chief, Michelle Skaggs of HRM Attorneys of 12801 E. New Market St, Carmel, Indiana. Attending via Zoom Jim Wilson representing LKQ, approximately 20 residents.

## III. APPROVAL OF JANUARY 2023 MEETING MINUTES

**Tim Pritchard requested a motion to approve the January 2023 Meeting Minutes; motion made by Kyle Eichhorn, seconded by Brad Ballentine. Roll call taken and all members present voted in favor of the motion. Motion carried.**

## IV. OLD BUSINESS

- A. PC01042023-02: 5517 W SR 38. Rezone from Agriculture-Large Lot to Light Industrial. Gaines Development LLC via LKQ Midwest Inc.

Hannahrose Urbanski summarized the proposed rezone

- Zoned: Large Lot Agriculture (A-1), two parcels
- Property is approximately 113 acres
- This property is part of the Southwest Quadrant of the 2021 I-69 Interchange Master Plan; adopted as a part of the Town's Comprehensive Plan

- Proposed Use: LKQ is a global distributor of used vehicle products. Per PC comments from January meeting, the warehouse would be along SR 38 set back behind future commercial/retail out lots (marked as future development). The remaining area of the property would be used as the stone storage yard
- Warehouse would be approximately 229,400 sq. ft with an approximately 70-acre stone yard
- On-site detention will retain existing natural tree line along western property border. Other locations of existing natural spaces on-site will be retained where feasible
- Bufferyards, berms and solid metal fencing will be used around entire property
- Will also require BZA approval for outdoor storage (contingent upon rezone approval)
- Photos were provided per January PC request of current LKQ facilities near residential areas and highways landscape renderings

Hannahrose Urbanski provided the Staff Analysis:

- Property is located within the 2021 I-69 Interchange Master Plan Southwest Quadrant. This area is conceptually planned for residential (south) and a portion of the Keystone Development District (north along SR 38)
- Property includes a portion of the conceptual 146th Street Extension project, which is slated to be a secondary arterial classification. It also touches the 67th Street Extension project from Anderson that stops at SR 38
- Fits size and access requirements for a Light Industrial lot. Will require coordination and engineering with INDOT for driveway cuts and spacing. The Town's 2021 Access Management Plan allows for two driveway cuts for this type of use and parcel size
- Parcels to both the east and west along SR 38 are zoned General Business (GB)
- Petitioner has company policies in place for meeting EPA standards for hazardous material disposal/recycling and proposes to have all auto servicing activity take place inside the warehouse structure

Hannahrose Urbanski provided the Planning Commission Recommendation, based on Indiana Code and the Town of Pendleton's Unifies Development Ordinance, consider the following:

- The Comprehensive Plan
- Current conditions and the character of current structures and uses in each district
- The most desirable use for which the land in each district is adapted
- The conservation of property values throughout the jurisdiction
- Responsible development and growth
- Commission can vote to recommend: Neutral; with or without conditions, Favorable; with or without conditions, Unfavorable; with or without conditions, or to Continue
- Next steps: Upon receiving the Planning Commission recommendation, Town Council will vote for adoption/denial of the proposed zone change at the February 9, 2023 meeting or continue and have up to 90 calendar days to vote

Hannahrose Urbanski asked for questions:

- Kyle Eichhorn requested clarification that a variance would be needed from the BZA for automobile and vehicle storage as conditional use in Light Industry. Urbanski confirmed. Eichhorn stated it also mentions no junk. Urbanski indicated it as salvage. Eichhorn pointed out the definitions from the UDO that inoperable vehicles are defined as junk. Would this also be given a variance. Urbanski affirmed.

Chris Farrar presented the three requests from the Plan Commission from the January Meeting:

- Updated elevations
- Accommodating the outparcel
- Showing current facility neighboring residential

Chris Farrar then reviewed the LKQ Presentation that was presented at the January Meeting.

Tim Pritchard asked the Board for questions or clarifications:

- Carol Hanna asked for Farrar to explain how this site was selected and why it is considered the perfect location for LKQ. Farrar responded that they look at an area and determine location logistics, topography, potential employee base, price, and interstate access. This property checks off all these components.
- Jeff Graham raised concerns of the Planning Staff and potentially others: typically, on a zoning change it is usually all-or-nothing; if zoned as Light Industrial then it's Light Industrial for everybody. Zoning stays with the land. Ways to alleviate concerns with that are commitments made by Petitioner as far as what the project will look like as a condition of the zoning being changed. Would the Petitioner commit to the project being substantially similar to the document that have been provided to the Town? Farrar agreed that would be the case, and that is why they provided the photos of newer facilities like Denver and Salt Lake City. He indicated that their screening renderings along the interstate might look slightly different based on the size of the trees, and that they would strive to preserve every tree possible. Farrar reiterated that what LKQ has presented is what LKQ is committed to; they stand behind their word.
- Carol Hanna referenced the conditional uses from the ordinances, the concern is that commercial use for auto/vehicle storage says no junk or salvage, this is only listed under the Heavy Industrial District that there are conditional uses for automotive storage, junk and damage storage yard facility. Hanna acknowledged the negative connotation associated with the verbiage but noted the ordinance definition is reclaimable material, inoperative vehicles in the process of being dismantled. Farrar stated that he understood and that he read it the same way. He said it could be a matter of zoning Heavy Industrial instead of Light Industrial. They would follow the guidance of the Town.
- Brad Ballentine inquired how many vehicles would be held in the gravel yard for processing. Chris Farrar was uncertain as to the exact number, and offered to provide that at a later time. Tim Pritchard said 5,000 - 7,000, based on prior presentation. Ballentine asked about security for the storage yard. Farrar said there have been some issues of theft at some of the older facilities, and they are in the process of securing third party security company. Farrar stated there would be security at the Pendleton facility.
- Jenny Sisson asked if alternative sites have been considered. Chris Farrar answered affirmatively, but this site checks most of the boxes.

Tim Pritchard opened up for questions or discussion from those residing in the immediate area of the proposed facility:

- John Higgins representing Pendleton Development; approximately 100 acres immediately to the west of proposed site. Stated his client's unequivocal objection

based on the time and money spent by the Town forming the Master Plan. This facility is completely incompatible with a residential use; Higgins referenced photos provided of current facility in residential areas. He provided actual photos from Google Street Map showing a road view, which show the visibility of the cars in the storage yard.

- Jerry Burmeister representing the Historic Fall Creek, Pendleton Settlement, Inc. read a statement of objection (available on Google Drive).
- Tim Pritchard presented statements of objection from: Anderson Madison County Visitors Bureau, Mystic Waters Campground, Community Sports & Wellness Center, Card Associates Athletic Facilities LLC, residents Jennifer and Jeff Blake (available on Google Drive).
- Jeanette Isbell acknowledged that LKQ seems to be a fine company and has no issues with them specifically, however this facility is not a good fit for the vision of the Town and especially located at the gateway into the Town.
- Doug Hineline objected based on concerns of excessive light pollution and that it is ridiculous that this facility is even being considered, as it does not even fit as Light Industrial.
- Nathan Davis objected and agrees that this does not fit for the Town's gateway, and the potential for theft spreading into the nearby residential area.
- Craig Campbell objected in agreement with previous comments. He also stated that the RDC worked hard on the Master Plan with Kimley Horn, one of the country's top organizations; they did trend work, research and numerous focus groups. Campbell has no issue with the company itself and finding a different location, but the proposed site is not the right place.
- Garry Brammer acknowledged the significance of this company's investment in the Town. His concern is what other companies would this attract instead of nice houses or retail strip malls, and the gain / loss of tax revenue of those situations.
- John Lord expressed agreement with expressed concerns. He asked if the Board knows of issue or concerns from other towns that have a current facility; Plainfield, Avon. Lord stated concern over environmental impact citing six million dollars of EPA fines based on a Google search, and the effect this might have on the residential area.
- Dave Cloud asked if LKQ has a wildlife mitigation plan as this site may be attractive to coyotes and other critters. Chris Farrar said they do not.
- Jan Stamper informed that her property butts right up to the site and she does not want to see something like this out there. She expressed concern that the high-end homes' value may be degraded. Stamper also expressed concern over the traffic pattern.
- Mike Bond asked if there is a performance bond of some kind in the event this business closed, that they would be responsible for cleanup. His concern was that this can end up being a huge expense and problem for the community. Bond asked, if this was approved, could there be an underground barrier to prevent leeching down into the soil to prevent contamination to the ground and wells. He asked if in-bound transports are ever considered HAZMAT, and if so, he is concerned these coming through town. Bond asked if conditional approval can be granted so that it has to be what the plan is now. Overall, he objects to the project, but wanted to ensure these things are being considered.
- Tim Pritchard asked Marc Farrer about HAZMAT coming through town versus interstate. Farrer said routes are established by the State based on what is on the

truck and the daily traffic. Hannahrose Urbanksi stated that truck routes should not go through town because State Street is no longer a state road, however they often do if they know the area.

- Jason Gaines expressed appreciation for all the people that showed up; he wants feedback. He really wants what is best for the town, he has lived here for a long time. Regardless of what happens here tonight, he wants what is best for the town. He has heard from the comments that residential is what's wanted. Gaines thought this company was a good fit for several reasons, it's a nice small building, good landscaping, but the idea of car carcasses / skeletons does not sound good even though they are lined up. But, you don't see them or smell them or taste them, but you know they're in there, like the prison. Gaines does not really like having a prison here, with a couple thousand people we may not really like, but we do not see them. Gaines said that he does not know what is best for them, he is asking them for guidance, the residential is fine with him, but when LKQ came along with a small owner-occupied building and the large berm, and when driving on the interstate it is hard to look and see any of that. He gets that the entrance way is important, but there are three other corners and for some reason it is up to the Gaines Family to put something really nice there. Gaines said he did not know or realize if he was in a historical district, he did not realize that was a concern. He knew this was going to be a small building and they would use all of the property, but then the alternative is residential which is what we all want. Gaines thought the traffic flow from the facility was good and minimal compared to something like a Starbucks. Also, positive points were high wage jobs and no tax abatements. On the flip side if we want residential for 110 acres, there could be several hundred houses and would have thousands of cars driving in and out of there, opposed to the minimal traffic from the facility. It would be great for the Town; new kids in the school, affordable housing, more diversity, but the traffic. Gaines addressed concerns about lighting, but adding a couple hundred houses, and the Urbahn's development and a couple more hundred houses and the population will grow real quick and driving out to the highway or into Town will take a while. Executive homes have been talked about, and he is all for that, but cannot find anyone interested in building that kind of home. So, we need to make a big decision in the Town that we can go with something like this with low traffic and high taxes and employment, and an attractive building with hopefully a nice fence line. If houses are put there, we will see a lot of light and a lot of people driving up and down 38 and 600 with new people. A member of the audience asked if it could stay farm. Gaines said in a perfect world, he would leave it as a farm, but it will not pay nearly as high. He needs to know what everyone wants, but we need to make a commitment. Gaines stated that people are comparing older buildings that LKQ purchased, which are not so attractive, and not as eco-friendly. Gaines said he thought this was a much cleaner, expedited project than having continuous construction from building house on his and Urbahn's property. Tammy Bowman addressed Gaines stating that this plan which was cast by this body is 18 months old, it is new and has not been marketed and we have not heard as a community from you and what your vision is for your property. She requested that this body give this plan a chance. It is a good plan, the community believes in it, we built it, we can make everybody happy but it will take longer than 18 months. Gaines questioned if the Fosters Branch residents want the long period of construction. A member of the audience stated the plan is a long-range plan, with mitigating traffic plans. Gaines stated that he is open to other ideas, and he thought that LKQ was a good deal and a fine company, and they worked hard with the planners.

- Craig Campbell stated that when the RDC focused on the business park, which is the TIF District, it was decided to move away from the industrial side of what was going in out there, and to move toward more professional things, such as medical, legal. We did not want to continue with industrial. Campbell also noted there was never discussion of low income or affordable housing.
- Sam Carosis, the realtor working with Gaines, based on research information, there is no demand for executive housing in this spot in Pendleton. Developments would need to happen in Fortville and McCordsville before it would be in demand here. Carosis claimed an estimate of housing on 114 acres would be upwards of 400 houses, lower income houses with higher density have 12-15 per acre, which would be well over 1,000 family units. The Plan Commission has the authority to make conditions on things such as lighting and wastewater. This is a company that partners with the community. Another benefit is that this is an end-user development, which normally does not exist in Indiana development. Most development is speculative development, with a build it, they will come focus. Conditions cannot be made on those developments, and tenants can change frequently. Carosis spoke to the tax base that is an annual number that would be added to the tax base; improvements to the fire department, police department, school system without adding families to those schools. This is a positive impact for everyone if we can get past stripping down cars and see how this company operates. You can absolutely apply conditional approvals and hold them to it.
- Leah Groby commented on all the speculation, there is not enough information to make a decision on what the land should be. She also commented on the visibility of all the parked car frames from the bridge across the interstate, and does not think this is necessarily what we want. Groby referenced the Comprehensive Plan and the promise of small-town charm and bold modern thinking.
- Marc Farrer questioned Chris Farrar, what are the work shifts, are there tow trucks out there at night beeping, do the car shells contain any wiring, upholstery. Farrar said shifts are 8-5, there are no trucks in and out at night, and there are no combustible materials left on the frames. Farrer stated that light pollution is also important. Is this something that would be clarified tonight, all the conditions? Tim Pritchard said that would not necessarily be done tonight.
- Online comments: Marilyn Bluel, Kelly Rahl agreed with previous statements of objections regarding environmental issues.
- Michelle Skaggs addressed the audience. She stated that she grew up in Pendleton and her dad still lives here. She said she lives in Fishers because there is nothing for her to do around here; there's not a lot here. But on the weekends, she brings her kids down here when it's nice. She would not present something here that she did not think was good. Because she is in Fishers, she can see that it is coming. Pendleton has an opportunity to do something with this land, where no realtor has contacted Gaines about anything residential. She stated that the land up the interstate in Fishers has been purchased and is going to be residential, but apartments, condos and lots of them. Her fear is that they have an opportunity, and if the Town waits to see what this should be, then when everything comes here, there will be no LKQ because they will go to another town, close to here, and those 80 employees will go to that town's restaurants, boutiques. The people here with businesses will continue to suffer. Skaggs said to those who have strongly opposed this project, have you considered all the information and done your research. A month ago, hardly anyone came here, even those who received notices, because no

one was concerned. It could have been passed last month, but the Board wanted more pictures. Pendleton has an opportunity. If you do not want to jump on it, so be it. But these fields will not last much longer. She does not want the tiny homes, condos and apartments to take over Pendleton. As far as the EPA, sure they have been fined. What happens when they buy a company that is a junk yard and clean it up? Does that happen in year one? No. If they cannot get it cleaned up, they get it closed. Why do you think they are building these new facilities? So it can be a clean facility and they go above and beyond what the EPA requires. She challenged the short-sightedness of the audience and said to be open and consider something because this is probably the best thing you will get.

- Denise McKee clarified the process for the Board as they consider their decision: this evening they have an opportunity to vote Neutral, Favorable, or Unfavorable. It can also be continued. If you vote Neutral, Favorable, or Unfavorable it will go to Town Council. It does not require a Favorable vote to go before Town Council. They can then take your certified recommendation and make a decision on this rezone application. McKee noted additional Plans that are in their shared drives for their review and comparison in relation to this proposal. McKee stated if this moves forward and is passed by Town Council without any commitments, this will be the last opportunity for this Board to place any conditions on the zoning change. If LKQ would decide not to purchase the land, it would remain Light Industrial as passed. A primary plat would not be submitted, this is a commercial piece of land that would only require a site development plan, based on a UDO passed in 2021.
- Carol Hanna asked for clarification that the decision at hand is strictly on the zoning. Denise McKee confirmed.
- Chris Farrar followed up on earlier concerns regarding issues at older facilities, and assured that those issues will not apply to a new facility. There is no comparison.
- Jim Wilson representing LKQ commented on the older facilities, and that any EPA fines are not related to any of the newer facilities.
- Tim Pritchard commended Chris Farrar on a nice presentation and what appears to be a nice company. He appreciates Farrar's transparency. Pritchard stated the issue seems to be this does not fit with the Town's Thoroughfare Plan, Comprehensive Plan, Keystone Development Plan. It is labeled as Residential, based on time and effort put into those plans. It may be too early to determine what is going to go out there, but something will go there at some point. It will unlikely stay farm land. Ultimately the job of this Board is to protect the Town and the people.
- Jeff Graham stated the next step is, regardless of the recommendation this evening, an ordinance will be drafted and put before Town Council. If the zoning petition ordinance is passed, the change will occur; from Agriculture to Light Industrial. The ordinance itself will list conditions and commitments that are made and those are recorded and remain with the land. The commitments made tonight by the Petitioner that the building will be substantially compliant with verbal and written commitments made will be included in the ordinance if the Council adopts it. For zoning changes it is a binary Yes or No; the Town Council must act on what this Board sends them. So the commitments made today will be in that ordinance and sent to Town Council.

**Tim Pritchard made a motion for an Unfavorable Recommendation with the Commitments/Conditions previously set forth. Motion seconded by Brad Ballentine. Roll call vote was taken. All members voted in favor; motion carried.**

- Jeff Graham stated the next Council meeting is February 9<sup>th</sup>. The Council can continue it for up to 90 days. If they take no action, the Unfavorable will carry. The petition could also be withdrawn.
- Tim Pritchard announced a 15-minute recess.

#### **B. PC Rules Update**

Hannahrose Urbanski presented:

- Clarity on what role the PC has, as Secondary Plats and Site Development Plan Review no longer goes through PC, only zone changes, primary plats, and approving/amending new Town Plans and Codes.
- Clarity on radius mailing types (certificate of mailing and certified mail).
- Updating code references to the 2021 UDO, as the rules were referencing the old code numbers, which are no longer relevant.
- References to Zoom being an acceptable form of applicant participation.

**Tim Pritchard made a motion to accept the updated PC Rules as submitted. Motion seconded by Kyle Eichhorn. All members voted in favor; motion carried.**

**V. NEW BUSINESS - None**

#### **VI. ADJOURNMENT**

Meeting adjourned by Tim Pritchard at 8:50 pm.

Next meeting March 1, 2023 at 7:00 pm.