

The Madison County Plan Commission on the above date at 9:30 A.M. with Bill Maxwell, President, presiding.

Members Present: Bill Maxwell, Paul Wilson, John Orick, Wesley Likens and Brad Newman

Members Absent: John Randall, Jr., Alan Esche, Mark Gary and Scott Tischler.

Also Present: Michael Hershman, Executive Director. Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

### Current Business

1. Roll call was taken and four members, Alan Esche, Mark Gary, John Randall, Jr. and Scott Tischler were absent.

2. The minutes of the July 11, 2006 meeting was distributed to each member prior to the meeting. Mr. Wilson made a motion to approve the minutes. Mr. Likens seconded the motion. The vote was unanimous in favor of the motion.

The minutes of the Special Hearing of July 11, 2006 at 1 P.M. were distributed to each member prior to the meeting. Mr. Wilson made a motion, seconded by Mr. Likens to approve the minutes. The vote was unanimous in favor of the motion.

The minutes of the Special Hearing of July 25, 2006 were distributed to each member prior to the meeting. Mr. Wilson made a motion, seconded by Mr. Likens to approve the minutes. The vote was unanimous in favor of the motion.

3. **Petition #450 of D.B. Mann Development for Detailed Development Plan Approval for Summerlake Retail Center at Summerbrook.** This property is zoned “PD” and is located on the southwest corner of 800S and St. Rd. 13 in Green Twp. and contains 7.705 acres, more or less. Forwarded from Technical Review Committee with conditions. Board members to investigate: Randall and Maxwell. This petition was tabled at the May 9, June 13 and July 11, 2006 Planning Commission meeting.

Mr. Hershman informed the board items, one and two are related.

Mr. Hershman said, I received a letter from Brian Tuohy, dated August 4<sup>th</sup> (letter on file in the Plan Commission office).

Mr. Hershman said, they are asking for continuance for Petitions #450 and #451.

There were no remonstrators present.

Mr. Wilson said, I make a motion to table this until the next Planning Commission meeting and if the issue is not resolved then the matter I believe should dropped.

Mr. Orick seconded the motion. The vote was unanimous in favor of the motion. **Petitions #450 and #451 have been tabled.**

4. **Petition #451 of D.B. Mann Preliminary Plat Approval for Summerlake Retail Center at Summerbrook.** This property is zoned “PD” and is located on the southwest corner of 800S and St. Rd. 13 in Green Twp. and contains 7.705 acres, more or less. This plat contains three (3) lots. Forwarded from Technical Review Committee with conditions. Board members to investigate: Randall and Maxwell. This petition was tabled at the May 9, June 13 and July 11, 2006 Planning Commission meeting.

As this goes along with the above Petition it was also included in the motion to be tabled.

### New Business

1. **Petition #471 of B & R Rentals, LLC to rezone property from CR to GC for a realty sales office.** This property is located on the east side of St. Rd. 37 approx. ½ mile north of Co. Rd. 1100N in Pipe Creek Twp. and containing .45 of a acre, more or less. Forwarded from Technical Review Committee with a favorable recommendation.

Mr. Hershman said, a mix of a mobile home park, factory, commercial and houses characterize the surrounding area. The site has 2 residences and a garage on it.

Proof of proper notification has been received by staff.

The site will have public sewer. The site is serviced by a well. The Board of Zoning Appeals granted a variance of the public water requirement on June 27, 2006. The applicant wants to operate a realty and property maintenance office at the site. The applicant is applying for a rezoning because they do not plan on living on the property. Any remodeling on the site will have to meet commercial building code. The applicant will have to have a State Design Release and a building permit before starting on any remodeling.

The Technical Review Committee heard the request on May 16, 2006 and forwarded a recommendation for approval.

The board was informed this site due to size is limited as to what could go in if it is rezoned.

Ray Watson, B & R Rentals was present.

Mr. Watson said, there would be no maintenance done at this site. We have rentals and do maintenance at those locations. We mainly obtain the fees for the rentals at this location.

Mr. Shine said, I spoke with the petitioner and advised him that since there are only five members present today any approval would take a unanimous decision. If he would like a continuance he could request one and we would grant that.

Mr. Watson replied, he would like to continue.

Mr. Watson said he would also exclude adult uses that is allowed under the General Commercial permitted uses.

There were no remonstrators present.

Mr. Likens said, I make a motion to forward Petition #471 of B & R Rentals, LLC to rezone property from CR to GC for a realty sales office to the County Commissioners with a favorable recommendation and with the stipulation an agreement or covenant that no adult uses would be authorized for this property.

Mr. Orick seconded the motion.

The vote was unanimous in favor of the motion. **Petition #471 of B & R Rentals, LLC to rezone property from CR to GC for a realty sales office received a favorable recommendation.**

## 2. Miscellaneous.

Mr. Hershman said, the first item is discussion of the Confined Feeding Operations, Cession of Permits. It has come to our attention that we have had several CAFO's applying for approval. We have two coming before the BZA and a third which at this point have to go through a rezoning and then apply for a Special Use.

We are currently looking at regulations regarding them so, I want to bring to the board's attention that we do have them coming in. One is a dairy expansion, which would run about 4,500 head of cattle. The other one is a breeder operation and that should be a couple of thousand hogs. Another is a finisher barn and they were talking 4,000 at that location.

Mr. Shine said, we did forward to the Commissioners a request for a new ordinance to allow the Planning Commission too by resolution in an emergency situation in act a cession resolution wherein you direct the Planning Director not to accept any petitions concerning any certain item that would come before the Planning Commission or the Board of Zoning Appeals.

A requirement however of that ordinance is number one, we must be reviewing that subject matter. And number two, we feel there will be some changes in the subject matter as we now treat it. And number three that an emergency exists because we are receiving substantial number of filings under our current ordinance, which we modify.

The Board of Commissioners at their last meeting approved this and it was publicized. So, it is now effective. Pursuant to that request Michael is required to come before the Planning Commission, present his case and make a request on whether or not on a subject matter if there should be a cession and you need to either approve or deny that. A specific notice does not have to be given. But notice has to be done in a public meeting.

We have a meeting this evening, a public meeting on CAFO's. We have two new filings before the Board of Zoning Appeals. Surrounding counties have many of these CAFO's pending before them and they are studying this. A look at the current zoning ordinances as it pertains to CAFO's will also have to be studied. And some changes in the ordinance will need to be made.

Mr. Wilson said, at the last Commissioners meeting there were approximately six to seven representatives of the farming community present. They had questions concerning the cession of permits amendment to the

zoning ordinance. I feel after the meeting they understood the meaning behind it. In the end they did not oppose the passing of the cession amendment to the ordinance.

They conveyed to us that they did not want the cession of permits to be used as an opportunity to put off forever the business of addressing petitions when it came to Special Use, Variance for CAFO's. From the wording that was passed from the Planning Commission to the Board of Commissioners there were two or three minor adjustments in the verbiage in that and one of the adjustments made was clearly it says, not to exceed six months. So, it is clear that once the cession of permits would be instituted that you have six months and they seemed to be satisfied. Also, the intent is not to stretch it six months. But the intent is to try and work through the process as quickly as possible, to gain as much knowledge as possible so it could be 30 days, 60 days but in no way was it going to go longer than 180 days.

Mr. Orick said, I think we need to clearly define when we are going to meet, who is on the committee and what their responsibilities and roles are. We need to assure people that we are going to address this. We need some kind of a guide. I think tonight's meeting will be very insightful.

Mr. Shine said, this board might rescind this resolution that was passed. This was done for any subject matter. This was not passed just for CAFO's. As soon as the Planning Commission makes a recommendation to the Board of County Commissioners of an ordinance change concerning CAFO's the Board of Commissioners approves that change, that is advertised, then that new change is in effect. I would recommend that we would have attached to that a provision that this resolution is rescinded effective the date the new ordinance goes in to effect. The resolution does not go to the Commissioners but the ordinance change would. This does not only affect the BZA it also affects the Planning Commission Board.

Mr. Wilson said, I would like to read the resolution in to the minutes and I would in company that by a motion then to pass it.

**RESOLUTION NO. 2006-PC-R-01**

**A RESOLUTION CEASING ACCEPTANCE OF PETITIONS AND PERMITS FOR CONFINED ANIMAL FEEDING OPERATIONS**

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WHEREAS, the Planning Commission of Madison County, Indiana, has heretofore been empowered by the Madison County Board of Commissioners, pursuant to the Madison County Comprehensive Plan and Land Use Development Code, to authorized the temporary cessation of certain zoning permits and applications; and

WHEREAS, the Planning Commission of Madison County, Indiana, is currently undergoing a review of certain regulations concerning confined feeding operations and confined area feeding operations and their special uses and/or permits; and

WHEREAS, the Planning Commission of Madison County, Indiana, conducted a regularly scheduled public meeting on the 8<sup>th</sup> day of August, 2006, pursuant to notice being issued; and

WHEREAS, the Director of the Planning Commission of Madison County, Indiana, advised at the public meeting that there had been considerable interest by various applicants to obtain information for the filing of various petitions concerning confined area feeding operations within the County, and the effect of the petitions could be contrary to the new proposals under consideration; and

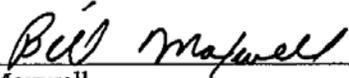
WHEREAS, the Director of the Planning Commission of Madison County, Indiana, has recommended that a temporary cessation of permits and applications concerning confined feeding operations and similar matters be adopted pending the review of the current standards and revisions; and

WHEREAS, an emergency exists for this cessation.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of Madison County, Indiana, that pursuant to the Madison County Land Use and Development Code, the Madison County Plan Director shall not accept applications/petitions for any proposals concerning confined area feeding operations, confined feeding operations or similar type matters until such a time that the Land Use Ordinance has been reviewed, but not to exceed 6 months from today's date.

Duly adopted by the Madison County, Indiana Plan Commission this 8<sup>th</sup> day of August, 2006.

**MADISON COUNTY PLAN COMMISSION**

  
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Bill Maxwell

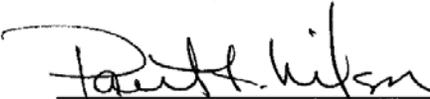
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R. Alan Esche

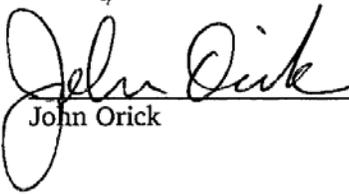
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Mark Gary

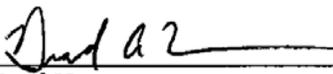
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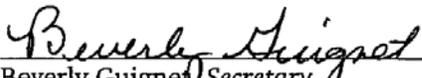
  
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Wesley Likens

  
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Paul Wilson

  
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John Orick

  
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Brad Newman

ATTEST:

  
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Beverly Guignet, Secretary

PREPARED BY:

Gerald P. Shine, Jr. (#297-48)  
Attorney for Madison County Plan Commission  
PO Box 1448  
Anderson IN 46015  
(765) 649-3434

(Original on file in the Planning Commission office).

Mr. Wilson said, I would make a motion that Resolution 2006-PC-R-01 as read be accepted by this Commission.

A discussion was called for before a second was made.

It was asked if the petitions were filed do they still stay?

The reply was yes.

Mr. Shine said, what this will effect is, if I come in and I tell you that I want to put in a new confined area feeding operation and I have not filed anything with the Planning Commission or the Board of Zoning Appeals or I want to come in and rezone property, that all those that have currently been filed on ending and will proceed under our current rules and regulations.

Several board members said they were concerned with the time frame.

Mr. Wilson said, you can't nail down to the day a time frame. What we have done is, we said it is not going longer the six months and we are going to explore it to the satisfaction that we can move a head. But to nail it down to a date I would think would be impossible to do. If it last to long this board can put an end to it. Without it I guarantee it, the book says the Board of Zoning Appeals has full authority to put on any restrictions they wish to do or they can say, I am sorry we are not allowed any more of these in the county and that's the end of it.

Mr. Shine said, why don't you consider this until our next meeting? At our next meeting hopefully we will have more than five of the members present. So, this doesn't just affect the five of you and we will have our meeting behind us. The public meeting that we will have tonight. Michael can submit to you a report as to who the committee members are, what he would request their goals to be and sort of a time schedule.

I think as council to the Board of Zoning Appeals to have this cessation approved today would be of benefit to them.

Mr. Wilson said, I would reiterate my motion to establish Resolution 2006-PC-R-01 as read in to the record.

Mr. Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Resolution 2006-PC-R-01 was approved.**

Mr. Hershman said, there were a couple of letters in the paper about a decision I had made regarding accessory structures being built before a primary structure. As a policy we normally do not allow an accessory structures to be built before primary structures unless they have about 15 acres. This is a decision that I had made. We have gotten a couple of request from people who want to put accessory structures on five-acre tracts. The ordinance does allow accessory structures to be built before the primary structures but it was for primarily agricultural related uses. It is for something to store agricultural related machinery. I made a policy decision not to allow anything beneath 15 acres because realistically you were not going to farm anything less than 15

acres. The property the article in the paper referred to was five acres and they wanted to build an accessory structure to house a couple of horses. We received a complaint on this and followed through on that call. There are more issues involved with this.

What comes before the board is, do we want to address that issues? Do we want to establish acreage or dollar amount at what qualifies that as an agricultural use that would allow an accessory building to be built before a primary structure?

Some concerns that I have are, those being built without the primary structure on five-acre tracts. Some of those are being converted in to businesses and there are a few who want to convert them in to living quarters.

You can also go through the variance process in order to build the primary structure first if you going to build a house to keep the building supplies in. A time limit is placed on those that the house has to be built within a certain length of time.

Mr. Wilson said, I think there are two problems with the 15 acres. For one, 15 acres is not in the ordinance. According to the ordinance there is no reason why they should have to apply for a variance because there is nothing to require them to apply for a variance. Two, I think it is just puts the Planning Director in an untenable position of an arbitrary decision of whether it's 10, 15 or 40 acres or what when it comes to the building. The current ordinance says, if a piece of ground is zoned agricultural it can be used and structures can be raised on it that are for agricultural use. So, if it's zoned agricultural and is five acres and a person comes in and says hey I putting a barn up to take care of my horses there is nothing in that ordinance that says they can't do it. And I think that is untenable position for the Planning Director to make decisions that are scoped beyond what the ordinance tells them what they can do.

I think it would behoove the Planning Department to tell them when they come they better be careful where they put your barn. Because if you come in to build your house and where you built the barn the house can't meet the setbacks then you can't build the house.

We need something in the ordinance to book to back us up.

After some discussion by the board it was decided the board members research this and give some ideas for this back to Mr. Hershman and then bring it back before the board to be discussed.

Mr. Wilson said, I am asking this of the Planning Director. I want to know what the status is on the burned out, junk property in the 4300 block of South Madison Ave. What are we doing about it? I have asked several times what are we doing about this? Have we filed a complaint on this in court?

Mr. Shine said, it that's the property I am thinking about, I don't know without a name but if it is no further auction can be taken because the county owns the property.

Mr. Wilson said, I want something done on this. People in the neighborhood feel like it's devaluing their property and they are complaining on a regular bases. We have talked about it and it's time to get something done.

I want an e-mail from the Planning Director as to what is going to be done about it and I want a report at the next Planning Commission meeting what you have done about it.

Mr. Shine informed the board the Hartman property at 13 and I-69, the concrete business, the rezoning case that was supposed to go to trial. That has been continued.

Mr. Orick made a motion, seconded by Mr. Wilson to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 10:49:52 A.M.

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Bill Maxwell, President

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Beverly Guignet, Secretary