

Minutes - Goshen Plan Commission
Tuesday, January 15, 2008, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Jim Smith, John King, Connie Garber, Jim Wellington, Jay Rounds, Bob McCoige, Lovina Rutt, and Kelly Huffman. Also present were City Planner Joe Hauflaire and City Attorney James Kolbus.

II. 2008 Plan Commission appointments
The Plan Commission members officially recognized newly and reappointed members.

- Connie Garber - *reappointed by Board of Public Works & Safety for four (4) years*
- Lovina Rutt – *reappointed by the Mayor for four (4) years*
- Darryl Riegsecker - *appointed by the City Council for a one (1) year term*

III. Election of Officers for 2008

A nomination was made and seconded, Rutt/Wellington, to reappoint Jim Smith as president for 2008. The nomination passed unanimously, 7-0.

A nomination was made and seconded, King/McCoige, to reappoint Kelly Huffman as vice-president for 2008. The motion passed unanimously, 7-0.

A nomination made and seconded, Garber/Wellington, to reappoint Lovina Rutt as secretary for 2008. The motion passed unanimously, 7-0.

IV. The minutes of 12/18/2007 were approved - Rounds/King, 7-0

V. The Zoning/Subdivision Ordinances were unanimously filed into Record - Rounds/Rutt, 7-0

VI. Postponements/Withdrawals - none.

VII. **Ordinance Amendment** – public hearing item

08-010A - Ordinance 4469 – Amending the Zoning and Use Regulation Ordinance, Section 4200.7, Off-Street Parking Regulations, and Section 5200, Conditional Uses, Dwelling Units

Mr. Smith reminded the members that the amendment will move forward to City Council with a recommendation from the Plan Commission.

Mr. Hauflaire advised that there are three (3) way to amend the Zoning Ordinance. He advised that it can either be proposed by a citizen member of the community, through the Plan Commission or through City Council. He advised that the current proposal came from the City Council. He advised that it was passed on first reading at the January 8, 2008 council meeting. He advised that the proposal does two (2) things. He advised that it removes the requirement that all downtown property owners purchase parking passes on a yearly basis for residential dwelling units and instead makes the passes optional. He advised that it also changes the minimum required dwelling unit size from 320 square feet to 720 square feet. He stated that there is currently an inconsistency regarding minimum unit size and this will remedy that discrepancy.

Mr. Hauflaire advised that the purpose of the downtown parking ordinance is to limit the residential density downtown. By doing so, he advised that it eliminates potential parking issues. He stated that the typical downtown residential units that are being developed are in excess of 1000 square feet so it will not cause a major change to what has recently been developed. He further advised that EID has approved the proposal and that is has been reviewed by the Chamber of Commerce and Downtown, Inc. and has received no negative feedback. He advised that he is recommending a favorable recommendation to City Council.

Ms. Garber inquired as to whether or not there are any small units in the downtown area at this point in time. Mr. Hauflaire stated that there are some but that they will be considered lawfully grandfathered.

Mr. Smith asked what would trigger those units having to come into compliance. Mr. Hauflaire stated that they would need to be either abandoned or discontinued for a period of 18 months.

Mr. Rounds asked if this was something that was missed with the ordinance the first time. Mr. Hauflaire stated that they had permitted 320 square foot units but required on-site parking for those units in the past. He stated that they were able to manage the number of units within a single property. He stated that those with insufficient parking would have had to get a variance through the Board of Zoning Appeals.

Mr. Rounds questioned why someone would purchase a pass, especially if they don't have a vehicle. Mr. McCoige gave the example of LaCasa purchasing passes for the tenants in their downtown properties.

Ms. Huffman asked if the individuals would then be setting up their own parking pass systems. Mr. Hauflaire stated that the City would still have a program in place. It would allow for the property owners to purchase annual passes for \$125. This would just make it optional instead of mandatory.

Mr. Rounds again questioned why anyone would ever buy a pass. Mr. Hauflaire advised that there are 24-hour lots but that they are not intended for long-term parking. He advised that officers are ticketing for parking in the lots for time periods in excess of 24 hours.

Mr. Wellington asked what would happen if someone wanted to divide a 1500 square foot unit into two (2) smaller units of unequal size (i.e. one unit with 1000 square feet and the other with 500 square feet). Mr. Hauflaire advised that it would need to go to the Board of Zoning Appeals for a variance as it would not meet the requirements.

Mr. Wellington further questioned the intent to proposed restrictions. Mr. Hauflaire advised that limiting the residential density in the downtown district prevents potential parking problems. Ms. Huffman also advised that it helps to control the density.

Mr. Rounds stated that he sees two (2) issues on the table. He stated that the City does not want to see flop houses in the downtown district. He advised that it had happened in a few places in the past and this helps to prevent that problem. He also pointed out that the money brought in from the parking passes in the past was available if new land would need to be acquired for additional parking areas. He stated that the intent of that plan was to be proactive. He advised that this new ordinance changes the City's stance to being reactive.

Mr. Wellington asked if the City limits the number of people residing in dwelling units. Mr. Hauflaire advised that the Ordinance provides a way to limit that.

Mr. Wellington proposed having an ordinance that would require a certain number of square footage per person and then also a certain amount of square footage per parking pass. Mr. Hauflaire advised that, although a logical idea, it would be very difficult to monitor from an enforcement standpoint. He advised that the current proposal will be hard enough to enforce. He stated that the Health Department also has standards in place that limit the number of people that can reside in a single dwelling unit. Mr. Hauflaire read for the Commission the Ordinance definition of "family" and explained how it applies.

Mr. Smith asked if a person would have to live downtown to purchase a parking pass. Mr. Hauflaire explained that the intent of the pass is that it would be for downtown property owners and tenants.

Audience Comments

There was no one to speak to the petition.

The public hearing was closed.

Staff Report & Discussion

There was no further discussion amongst the members.

Action

A motion was made and seconded, King/Garber, to pass along a favorable recommendation to City Council for Ordinance 4469. The motion passed, 6-1, with Mr. Wellington voting against the motion.

**VIII. Ordinance Amendment (tabled from the 11/20/2007 meeting) – public hearing item
07-02OA - Subdivision and Zoning Ordinance Amendments**

Mr. Smith reminded the members that the fee schedule is a separate item at this point and not part of the ordinance amendment that is being proposed.

Ms. Huffman questioned whether the previously discussed fee removal from the Ordinance was approved by the Common Council. Mr. Hauflaire advised that they tabled the fee schedule item for further discussion and for the City Attorney to look into the legality of the removal. He advised that the proposed fee schedule needs to be decided upon either way, regardless of whether it remains in the Ordinance or in the Rules of Procedure.

Attorney Kolbus further stated that the Council needs to decide if they want to pass the power along to the Plan Commission regarding the fee schedule.

Ms. Huffman advised that she would rather not discuss the fee schedule changes until Council decides how they would like to proceed. She advised that it has to go through two (2) public hearings if it remains in the Ordinance which allows for public scrutiny. If placed into the Rules of Procedure, however, she stated that it would fly under the radar. She stated that she understood that Assistant City Planner Rhonda Yoder would be sending out a letter to the developers asking for input for the proposed fee schedule. She stated that she does not want to proceed until that is done as she would consider any discussion without that information to be a waste of time.

Mr. Hauflaire questioned why the fee schedule changes would be different if placed in the Rules of Procedure as opposed to the Ordinance. Ms. Huffman stated that, if in the Plan Commission's hands, then it would be their job to put more consideration into the fees. She stated that she would want input from developer's if they were to be the final judge regarding the fee schedule.

Attorney Kolbus advised that City Attorney Larry Barkes looked into the legality of placing the fee schedule into the Rules of Procedure and has advised that it is possible.

Ms. Huffman further stated that she sees fees as another form of taxation. Mr. McCoige pointed out that the fees also help to pay for City services that are provided.

Ms. Huffman again stated that she did not want to move forward with any fee discussion at that time. She stated that, as a developer, she clearly remembered Ms. Yoder's comment that developer's would be notified about the changes and asked for input.

Ms. Smith advised that, because of opposition, that the fees would not be discussed until a later date. He requested that the discussion move forward to the other proposed amendments.

Attorney Kolbus pointed out that the members were given an additional handout showing four (4) additional changes, shown in red, that were made after packets were distributed.

Mr. Hauflaire stated that he met with a total of five (5) Plan Commission members prior to today's meeting regarding the proposed amendments. He advised that, aside from the definition of firearm dealer and information regarding outside display and outside storage, most of the changes are clerical and changes that are helpful for administration of the Ordinance.

Ms. Rutt stated that she felt that the language regarding parking requirements for hotels/motels on page 6 seemed redundant. Mr. Hauflaire explained that any additional uses, such as a restaurant, would also require additional parking. Mr. Rutt stated that she understood the language once it was explained.

Ms. Huffman questioned whether or not Council would be able to pick and choose which portions of the proposed amendments that they would pass. Mr. Hauflaire stated that they do have the ability to do that. Attorney Kolbus further stated that they can do that with matters of language. He stated that with straight zoning matters, however, they would either be required to grant it or deny it.

Mr. Wellington questioned whether the existing gun shop downtown will be permitted to remain if the proposed amendment is passed. Mr. Hauflaire stated that it would be allowed to remain.

Mr. Wellington questioned why gun shops would be prohibited in the downtown district. Mr. Hauflaire advised that the Planning Department received several calls from citizens that consider it to not be a compatible use in the downtown.

Ms. Huffman questioned how many calls were received. Mr. Hauflaire stated that approximately five (5) calls were received but that there were also editorials written.

Mr. Wellington questioned why it would not be considered a compatible use downtown. Mr. Hauflaire stated that people do not feel that it is part of the mix that makes up downtown. Mr. Smith added that people feel that it fits into the same category as pawn shops, tattoo parlors, etc... and that such things are not a sign of a thriving downtown.

Ms. Garber agreed with Mr. Smith's statement. She stated that she considers gun shops to be respectable but understands that image is important and that many people downtown do not want that type of business in the downtown district.

Mr. Wellington questioned what would happen if John Hall Hardware, an existing downtown store, would choose to have a gun section instead of a garden section. Mr. Rounds stated that the proposed amendment only prohibits gun sales if they are the *primary* business or trade. In such a case, he stated that it would have to be decided which use was the primary use for the store.

Mr. Hauflaire suggested adding the word "primarily" to the definition. The members agreed that it would help to clarify such situations.

Mr. Wellington questioned which scenario would be worse: allowing a proper gun store where they could teach you about the guns or places such as Wal-Mart where they will sell a gun to anyone. Mr. Smith pointed out that this amendment would only limit their ability to locate to the downtown district. Mr. Hauflaire further stated that the issue at hand is whether or not gun sales should be a permitted land use in the downtown district.

Mr. Smith suggested moving the discussion along to the Subdivision Ordinance amendments. He pointed out that there is a fee schedule within this ordinance, as well, that needs to be dealt with. He stated that this will also be a recommendation to Council as were the fees from the Zoning Ordinance.

Mr. McCoige questioned the need to move forward on this now as the Council is undecided on the previous proposal. Mr. Hauflaire stated that bringing this forward, as well, would force them to act upon the matter.

Audience Comments

Barry Pharis, Brads-Ko Engineering & Surveying at 1009 S. 9th Street, spoke regarding Ordinance 3169 (Subdivision Ordinance). He stated that there are two (2) items that they would like to see changed.

Mr. Pharis stated that he would like to see the wording in Appendix E, No Performance Bond Submitted to Board

of Works, bullet one (1), changed from “as built plans certified by a Registered Engineer in the State of Indiana” to “as built plans certified by a Registered Engineer or Registered Land Surveyor in the State of Indiana”. He stated that he would like to see both engineers and land surveyors listed as either is able to certify plans.

Mr. Pharis stated that he would also like to see a change in Appendix F (subdivision flow chart). He stated that the proposal requires drainage approval prior to preliminary subdivision approval. He stated that they would like for it to be required *after* preliminary approval as it is a financial hardship for a person developing a property to pay for the drainage plan work if the subdivision may not be approved. Mr. Pharis provided the example of the proposed “Oaks” subdivision on Middlebury Street. He stated that his client would have had to pay a lot of money for a plan that was denied by the Plan Commission.

Mr. Hauflaire pointed out that minor subdivisions are handled in only one meeting where major subdivisions have both a primary and secondary approval. He also pointed out that changing the order of the flow chart would then make it inconsistent with Section 512 of the Ordinance. Mr. Pharis stated that Section 512 should also be changed.

Ms. Huffman asked why the process hasn’t been following the Ordinance standards prior to this point. Mr. Hauflaire pointed out that the Plan Commission would often grant secondary or final approval with several strings attached to facilitate and expedite the process. Because of doing so, there has been a lot of confusion and a lot of problems. He stated that the plan is to follow the Ordinance from this point forward and to enforce it the way that it is written.

Ms. Huffman asked Mr. Pharis if their firm has already started adjusting to the new process. Mr. Pharis advised that they have and that they are also now working on the post-construction plans that are now required by Engineering. In response to that comment, Mr. McCoige pointed out that the post-construction plan has its own ordinance separate from the Zoning & Subdivision Ordinances.

Ms. Huffman commented that, since most are already onboard and following the “new” procedure as spelled out in the Ordinance, that it seems that the City should be able to bend in some areas to allow things to move forward without a large financial expense. Mr. Hauflaire disagreed with her comment.

Ms. Huffman asked Mr. Pharis for the approximate cost of a drainage plan. Mr. Pharis stated that it would be approximately \$30,000.

Mr. Hauflaire advised that the Planning Office will have to review the proposed change prior to giving a quick answer. Attorney Kolbus stated that an answer would also require Engineering input.

Mr. Smith suggested tabling the Subdivision Ordinance amendments until the matter can be researched.

The public hearing was closed.

Staff Report & Discussion

Mr. Smith stated that there are two (2) items that require a decision. He advised that there are the proposed Zoning Ordinance amendments and pointed out that only change from today is the addition of the word “primarily” to the definition of firearm dealer. He stated that they also need to act on the Subdivision Ordinance.

Action

A motion was made and seconded, Huffman/Rutt, to pass on a favorable recommendation to City Council for the proposed Zoning Ordinance amendments with the addition of the word “primarily” to the definition of firearm dealer. The motion passed unanimously, 7-0.

A motion was made and seconded, Garber/Rounds, to table the proposed Subdivision Ordinance amendments to research further the suggestions that have been made. The motion passed unanimously, 7-0.

IX. Audience Items - *none*

X. Staff/Board Items

- *Fee Schedule*
Item to remain on the table.
- *Peninsula Planning Task Force* (tabled from the 11/20/2007 meeting)
Item to remain on the table.
- *Training*

Mr. Hauflaire informed the members that he and Mr. Smith would be attending the Nitty Gritty training in Westfield on January 25th. He advised that there is also another training opportunity available on January 23rd at the county fairgrounds that is open to the public. He encouraged all to attend as there have been several comments from members wanting training.

Mr. Hauflaire also handed out two copies of Planning Made Easy for the members to look over and provided handouts to everyone with various topics of discussion. He proposed having the members each take a topic and research it and then present it to the members at the end of meetings.

The members all stated that they would prefer a separate time for training as opposed to the end of a meeting as they typically last a full two (2) hours without anything additional.

Mr. Smith advised that he would prefer to have a professional come in to train them as there will be questions that they do not know when self-teaching. The members were advised that a two (2) hour training session costs approximately \$3,000. Ms. Huffman advised that she would be willing to look for private funding.

Mr. Smith and Mr. Hauflaire are to report back after their January 25th training. Mr. King advised that he would be attending the training on the 23rd. Ms. Huffman expressed concern over the fact that different people may take away different understandings from the same training and provided an example from a previous training that she attended.

XI. Adjournment - 5:30

Respectfully Submitted:

Becky Hershberger, Recording Secretary

Approved By:

Jim Smith, President

Lovina G. Rutt, Secretary