

Minutes - Goshen Plan Commission
Tuesday, April 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: John King, Mary Cripe, Connie Garber, Lovina Rutt, Jim Wellington, Kelly Huffman, Darryl Riegsecker and Jim Smith. Also present were City Planner Joe Hauflaire and City Attorney James Kolbus.
- II. The minutes of 3/18/2008 were approved - Garber/Wellington, 8-0.
- III. The Zoning/Subdivision Ordinances and Official Staff Reports were unanimously filed into Record - Rutt/Garber, 8-0.
- IV. Postponements/Withdrawals: None
- V. **Rezoning**– public hearing items
08-04R The City of Goshen requests the rezoning of four (4) lots from Residential R-2 to Industrial M-2 and the rezoning of one (1) lot from Industrial M-1 PUD to Industrial M-2 to allow for the expansion of the City’s waste water facilities located at 1000 W. Wilden Avenue. The subject properties are generally located on the west side of N. Indiana Avenue, south of W. Wilden Avenue with the common addresses of 803, 807, 817 and 821 N. Indiana Avenue and 705 N. Indiana Avenue.

Petitioner Presentation

Dustin Sailor, Goshen City Engineering at 204 E. Jefferson Street, spoke on behalf of the petition and stated that he is representing the waste water treatment facility. He stated that they are requesting the rezoning of five (5) lots and presented a PowerPoint presentation further explaining their request and the need for expansion and providing information as to what they are planning for the future. He stated that they are working to eliminate Combined Sewer Overflows (CSO’s). He also advised that they are not planning for any plant upgrades until approximately 2017 as the CSO program takes precedence at this point. He stated that they are requesting Industrial M-2 zoning. (A copy of the PowerPoint presentation is in the file.)

Audience Comments

Jessica Petrie, 1206 N. Chicago Avenue, stated that she lives in the area and was concerned that the current situation was going to get worse with the current petition. She stated that she is, however, very happy with the plans that have been shown and she stated that she thinks that it will make the situation better. She stated that she is in favor of the rezoning.

The public hearing was closed.

Staff Report & Discussion

There was no discussion amongst the Commission members.

Action

A motion was made and seconded, King/Wellington, to pass along a favorable recommendation to City Council for 08-04R. The motion passed, 8-0.

- VI. **Rezoning**– public hearing items
08-05R Scott Jarrett requests the rezoning of four (4) lots from Residential R-2 and Commercial B-3 to Commercial B-3 PUD. The subject properties are generally located on the west side of Lincolnway East and south of Plymouth Avenue with the common addresses of 919, 921 and 929 Lincolnway East.

Petitioner Presentation

Scott Jarrett, 1909 Brookstone Court, stated that he is the petitioner and current property owner. He stated that he is in agreement with the Staff Report recommendations and had nothing additional to add.

Audience Comments

There was no one to speak to the petition.

The public hearing was closed.

Staff Report & Discussion

Mr. Hauflaire advised that he had received a copy of the proposed building elevation for Lots 1-3 and provided a copy for the Commission members to review. He also further explained the reason for the limited permitted uses being recommended.

Mr. Smith pointed out that Condition #3 should state “recommended” preliminary plan instead of “approved” preliminary plan. He also brought up the issue of sidewalks for the development. He stated that there are already sidewalks along the south side of Plymouth Avenue and made the suggestion that this would be a good time to require that the sidewalks be continued along the corner and along Lincolnway East.

Ms. Rutt asked if the sidewalks along Lincolnway East would connect to any other sidewalks further down. Mr. Smith stated that it would not at this point but may in the future.

Mr. Hauflaire explained how the sidewalks were done for Starbest subdivision and the wording that was used in the conditions. He also advised that this case may be the beginning of the sidewalks along Lincolnway East.

Ms. Huffman asked Mr. Jarrett how he would feel about putting sidewalks along Lincolnway East. He asked why he would be required to install sidewalks now at his own expense if INDOT is planning to widen the road. Mr. Smith stated that he understands that INDOT will then replace the sidewalks when the road is widened. Ms. Cripe clarified that Engineering’s understanding is that the sidewalks will be installed by INDOT at the time of widening regardless of whether or not they were in place prior to that point. She advised that the project is currently scheduled for 2014.

Mr. Hauflaire noted that there would be approximately 225’ of sidewalk required along Lincolnway East. Mr. Jarrett stated that he would rather not but understands that the decision to require them is up to the Plan Commission.

Mr. Smith stated that he would like to see sidewalks along Lincolnway East.

Mr. Riegsecker stated that he would hate to see the developer be required to install sidewalks that go nowhere.

Ms. Huffman pointed out that this would be inconsistent with how things were done for the Starbest subdivision.

Mr. Smith pointed out that the sidewalk along Lincolnway East *would* be connecting to the sidewalks along Plymouth Avenue. He stated that it would connect on the one side which is what would set it apart from the Starbest example. Ms. Garber agreed with Mr. Smith.

Ms. Huffman asked if the sidewalks along Lincolnway East would be required if the new sidewalk ordinance were in effect. Mr. Hauflaire confirmed that they would.

Mr. King stated that he would like to see sidewalks along Lincolnway East but understands that it would be a large expense for the developer. He pointed out that there may be no new development between the subject property and the Starbest property between now and 2014. He asked what the approximate cost for installing the 225’ of sidewalk would be. Mr. Smith stated that he has been told that it is approximately \$3.00 per square foot and, at 10’ wide, would total about \$6,700.

Ms. Rutt asked if there is any way that the City could help with the cost. Mr. Hauflaire stated that he does not believe

that the City would participate in the funding of the sidewalks.

Attorney Kolbus advised that the Commission should focus on the planning aspect and not the cost or the policy involved.

Ms. Cripe suggested using the same sidewalk language that was used with Starbest. Mr. Wellington asked who would be in charge of remembering that condition and ensuring that they are installed. Mr. Hauflaire stated that the Planning Department would do so.

Ms. Rutt stated that she would like to hold off on requiring the sidewalks along Lincolnway East as there is a real possibility that INDOT will do it themselves in a few years.

Mr. Smith pointed out that the plans for the road widening may not run on time and that there is a chance that it may take longer than six (6) years for the sidewalks to be installed.

Mr. Jarrett pointed out that this project could be done without the PUD overlay and, if done as a straight rezoning, that sidewalks would not even be an issue. In response, Mr. Hauflaire stated that he is more comfortable with this project moving forward as a PUD. He stated that it allows for more control in the development of the side. He stated that the PUD addresses the issues of setbacks, curb cuts and signs which would otherwise have to go to the BZA. He again stated that he feels that the PUD is the better option and advised that he may not support a straight rezoning request.

Ms. Huffman pointed out that *any* new development would trigger the sidewalk ordinance if adopted, even with a straight rezoning.

Mr. Jarrett stated that he is not amending his PUD request but is not in support of the sidewalks along Lincolnway East. He stated that they currently own a majority of the properties along that side of Lincolnway East and further advised that they are not planning to install sidewalks at any of those properties. He pointed out that they will have sidewalks that extend to nowhere if this is required.

Mr. Wellington asked Mr. Jarrett if they would be agreeable to having the same trigger point that was required of Starbest. Mr. Jarrett stated that it would be fine as he does not foresee any sidewalks being installed on the two (2) lots that he does not own.

Mr. King asked what type of landscaping will be required. Mr. Hauflaire stated that the landscape ordinance requires street trees, buffer yard and parking lot landscaping.

Mr. King advised that he does not foresee much foot traffic in this area and stated that 2014 would be soon enough for the sidewalks in his opinion. He stated that the proposed development is a visual improvement for what is currently on the properties. Mr. Riegsecker agreed stating that he would rather see this plan than what is currently in place.

Ms. Garber stated that she is concerned that the Commission keeps putting off starting the sidewalk trigger process. Mr. Wellington agreed that it will have to be done at some point but is in favor of giving the petitioner the same language that Starbest was given.

Ms. Huffman stated that she is concerned about the safety issue as there would be a sidewalk that ends very abruptly on a very busy street.

Mr. Smith stated that he would like to amend Condition #10 to say that sidewalks shall be required along Plymouth Avenue and Lincolnway East.

Action

A motion was made and seconded, Smith/Wellington, to amend Condition #10 to state that sidewalks shall be required along Plymouth Avenue and Lincolnway East.

A roll call vote was taken. J. King – yes, M. Cripe – no, C. Garber – yes, L. Rutt – yes, J. Wellington – yes, K. Huffman, - no, D. Riegsecker – no, J. Smith - yes. The motion passed by a vote of 5-3.

A motion was made and seconded, Smith/Wellington, to pass along a favorable recommendation to City Council for 08-05R with the conditions listed in the Staff Report and the amendment to Condition # 10.

A roll call vote was taken. J. King – yes, M. Cripe – no, C. Garber – yes, L. Rutt – yes, J. Wellington – yes, K. Huffman, - no, D. Riegsecker – no, J. Smith - yes. The motion passed by a vote of 5-3.

VII. Secondary Plat Approval & Final PUD Site Plan Approval - not public hearing items
Dierdorff Square Subdivision & Final PUD Site Plan Approval for Lot 1

Petitioner Presentation

Barry Pharis, Brads-Ko Engineering & Surveying, Inc. at 1009 S. 9th Street, was present on behalf of the petitioner. He stated that they are in agreement with the Staff recommendations. He stated that they have complied with all requirements and conditions previously placed upon them. He advised that they are in the process of working with the City Engineering Department on their post-construction plan. He noted that there will be sidewalks along Karisa Drive and also pointed out that there is a trigger in place for the sidewalks along Dierdorff Road.

Ms. Huffman asked what is being planned for the development. Mr. Pharis stated that they will all be professional offices as required by the PUD ordinance. He stated that Lot 1 will be a doctor's office and that the other three (3) lots are not yet planned.

Staff Report & Discussion

There was no discussion amongst the Commission members.

Action

A motion was made and seconded, Rutt/Garber, to grant secondary plat approval for Dierdorff Square subdivision with the conditions listed in the Staff Report. The motion passed, 8-0.

A motion was made and seconded, King/Rutt, to grant final PUD site plan approval with conditions listed in the Staff Report. The motion passed, 8-0.

VIII. Secondary Plat Approval for Lot 1 & Final PUD Site Plan Approval - not public hearing items
Starbest Subdivision & Final PUD Site Plan Approval for Lot 1

Petitioner Presentation

Barry Pharis, Brads-Ko Engineering & Surveying, Inc. at 1009 S. 9th Street, was present on behalf of the petitioner. He stated that they are in support of the Staff recommendations and had nothing further to add.

Staff Report & Discussion

Mr. Haufaire clarified the sidewalk condition that was put in place in December 2007 stating that sidewalks will be required when either an adjacent property installs them *or* when the road is widened by INDOT.

Ms. Huffman asked what is planned for this site. Mr. Pharis stated that it will be a seventy-seven (77) room Holiday Inn Express. He advised that the existing Holiday Inn Express has been sold and will become a Country Inn & Suites.

Action

A motion was made and seconded, Garber/Huffman, to grant secondary plat approval and final PUD site plan approval for Starbest Subdivision, Lot 1 with the conditions listed in the Staff Report. The motion passed, 8-0.

IX. Ordinance Amendment– public hearing item
08-02OA - Goshen City Plan Commission requests an amendment to the Zoning Ordinance to include a new section in the Zoning Ordinance for Sidewalks. Also, amend Subdivision Ordinance to include

sidewalks as part of the required public infrastructure. Copies of the proposed ordinances are available in the Planning Office at 204 East Jefferson Street, Suite 4 during business hours.

Petitioner Presentation

Mr. Hauflaire advised that the proposed ordinance was put together by the Land Use Advisory Group consisting of Ms. Huffman, Ms. Cripe from time to time, and Mr. Smith as well as John Hertzler, Dr. Ned Kauffman and Dr. Don Minter. He advised that it is the same group that put together the current landscape ordinance. He stated that they have been working on this proposal for nearly eighteen (18) months. He stated that they have met with the Goshen Chamber of Commerce on two (2) occasions with the most recent being approximately two (2) weeks ago. He stated that he believes that they are in support of the current proposal.

Mr. Hauflaire briefly reviewed the proposal with the members. He stated that they are requesting to amend both the Zoning and Subdivision Ordinances. He explained the different required widths and the correlation between street classifications. He pointed out the red text and explained that they are changes that have recently been proposed. He further stated that he does not want any action taken on the proposal today as there are still additional changes taking place regarding paragraph E.

Attorney Kolbus pointed out that the time concept is important to discuss today. He stated that the members need to decide whether or not they feel that the 75% clause is agreeable.

Mr. Hauflaire advised that they talked extensively with the Chamber of Commerce about Section 000.2. He advised that the first part talks about sidewalks on undeveloped lots and advised that sidewalks would automatically be required. He also point out that sidewalks would be required if a person were to add more than 25% to a structure, more than 5,000 square feet *or* 30 plus parking spaces. He stated that they would only be required if connecting to an existing or planned sidewalk. He provided an example of Gorham Woods residential subdivision and the fact that there are no sidewalks throughout the entire subdivision. He stated that this portion of the ordinance would preclude sidewalks in that type of situation.

Ms. Huffman pointed out that the formation of a sidewalk commission may be the only thing that will drive the city to have sidewalks in existing, developed areas.

Mr. Smith asked if Section 000.3 would make the property owner responsible for maintaining the physical integrity of the sidewalk. Mr. Hauflaire advised that it would cover both.

Ms. Huffman advised that property owners cannot legally require snow removal. She stated that the proposed ordinance is not covering that. Attorney Kolbus confirmed her statement and advised that snow removal is covered under other City ordinances.

Mr. Smith asked if the maintenance issue would be different. Attorney Kolbus advised that maintenance is also covered in order ordinance and that it is simply being referenced in the proposed ordinance.

Mr. Smith requested clarification on what the 4th line of the Sidewalk Plan section is stating. Mr. Hauflaire stated that the Sidewalk Plan hopes to connect the entire city with sidewalks. Regarding the sidewalk commission, he stated that they envision a seven (7) member group and listed the various agencies and groups that would be involved. He advised that the Planning Department would do the leg work and that the commission's job would be to look at the bigger picture and the bigger plan of connecting the entire community.

Mr. Hauflaire advised that he will be making additional minor amendments prior to next month's meeting. He advised that the substance will not change nor will the intent of the proposal.

Mr. Smith asked if the change from the current 4' requirement to a 5' requirement will cause problems for development. Mr. Hauflaire advised that the requirement has already been bumped up to 5'.

Ms. Huffman asked if the intention is to have the sidewalks abutting the street or if the goal is to have landscaping

between the sidewalk and the roadway. Mr. Hauflaire stated that street trees are allowed to be planted within the front yard setbacks so they are not required to be within the right-of-way. Ms. Cripe stated that Engineering would prefer to have the sidewalk next to the right-of-way line and not abutting the street as they then have room to place hydrants, mailboxes, etc...

Ms. Huffman asked if the proposed sidewalk widths will work from an engineering standpoint. Ms. Cripe stated that they support the 10' sidewalks along arterial streets. She advised that they would consider 5' widths to be sufficient along collector streets if located on both sides of the street but 8' if only on one side. She advised that collector streets do not have high speeds like an arterial and she noted that speed is what they look at.

In response, Ms. Garber stated that she feels that 5' is narrow on collector streets. Ms. Cripe noted that everyone most likely has a different perspective.

Mr. Hauflaire reminded the Commission that the detail of sidewalk placement would always be left up to Engineering to determine.

Ms. Garber gave an example of 15th Street and the fact that some people installed sidewalks and others didn't. She asked if the ordinance would be retroactive and if it could fix that type of scenario. Ms. Huffman stated that the sidewalk commission would be able to do so but only if new development is being done on that property.

Audience Comments

David Daugherty, President of the Goshen Chamber of Commerce at 222 S. Main Street, spoke in support of the proposed ordinance. He stated that Mr. Hauflaire has touched on most of their concerns. He stated that the Chamber supports the proposal and believes that it contributes to the quality of life. He stated that they feel that the Commission is an important part of the proposal. Their major concern was Section 000.2 but he confirmed that Mr. Hauflaire's verbal revision from today appears to resolve their concern. He added that they would like to see a sidewalk along at least one side of all collector streets.

Barry Pharis, Brads-Ko Engineering & Surveying, Inc. at 1009 S. 9th Street, questioned whether or not sidewalks are required to be located within the public right-of-way. Attorney Kolbus stated that they can be on private property but advised that there would need to be an easement in place.

Mr. Pharis further stated that there are areas in town that do not have enough right-of-way to install sidewalks. He stated that he would like to know that there is a mechanism in place to allow for the green space requirements to be met while also having the sidewalks in place.

Mr. Pharis stated that he would like to see residential sidewalk requirements bifurcated from the other uses and then industrial from commercial. He also raised the issue of sidewalks being required before a home is built in a subdivision. He stated that it causes problems with the placement of the home and driveway. He also stated that those sidewalks would likely have to be ripped out and replaced at someone's expense after the home is built due to damage.

For commercial development, Mr. Pharis stated that he would prefer to see 90% be the trigger as opposed to 75%. He stated that commercial development is often smaller and the developers more frequently know what's going to happen. He pointed out that industrial is completely different, as well, and stated that he would like to see residential as its own ordinance. He closed by stating that he is for the sidewalk ordinance and would like to see it tailored to fit future issues that will come about.

Mr. Riegsecker made the comment that dump trucks cannot drive over sidewalks. He stated that they would need to be rebuilt in such instances. He stated that sidewalks would also need to be ripped out when gas lines need to be installed in new homes.

Ned Kauffman, 1205 Berkey Avenue, stated that he was part of the committee that worked on this ordinance. He stated that he feels that there is an overall need for sidewalks. He stated that he does feel that sidewalks should be "required public infrastructure". He advised that retrofitting will be the case with the Commission and that the ordinance itself

will eliminate the need for retrofitting for future generations. Mr. Kauffman pointed out that the Walgreen's on Lincolnway East is currently putting in sidewalks despite the fact that they do not connect to anything. He stated that he was glad to see today's Lincolnway East rezoning case go as it did because it does need to start somewhere. He pointed out that easements are a key to making things connect.

The public hearing was closed.

Staff Report & Discussion

Mr. Hauflaire asked the members if they feel that 8' on both sides of a collector street is too much. He asked that they put thought into that. In response to Mr. Pharis' request to divide up residential, commercial and industrial, Mr. Hauflaire stated that he is unclear on how that would work and stated that he would prefer to leave it in its current format. He also noted that there is a clause in the proposed ordinance for infill scenarios. He stated that it requires that the new sidewalk match what already exists. He reminded the members that the Board of Zoning Appeals is always an option, as well, if a variance is needed.

Mr. Pharis asked for clarification as to what the sidewalk commission will do. Ms. Huffman stated that she sees it as a group that will work with the City to have programs available and to do redevelopment projects.

Mr. Smith commented that this is a "go forward" type of ordinance, except for the commission. He pointed out that it will be more of a retrofit program.

In response to Mr. Pharis' suggestion, Ms. Huffman stated that she would rather redo E than revamp the entire ordinance.

Attorney Kolbus pointed out that there may be some lots that never have a sidewalk if a number of years clause is put into the ordinance.

Mr. Hauflaire pointed out for the members that similar comments and proposals are being made regarding the Subdivision Ordinance. He stated that sidewalks will become part of the infrastructure. Mr. Hauflaire stated that he would like to hear additional comments on the proposed ordinance next month.

Ms. Huffman asked if a copy of revisions can be mailed out to the Commission members. Mr. Smith stated that any revision suggestions made by the Commission should be e-mailed to Mr. Hauflaire no later than 4/25/2008. He stated that the members would then be provided with a new copy of the proposal for discussion at the next meeting.

Action

A motion was made and seconded, Huffman/Garber, to table 08-02OA until next month's meeting. The motion passed unanimously, 8-0.

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

08-03OA – Goshen City Plan Commission requests an amendment to the Zoning Ordinance to include a definition for multi family dwelling units. A copy of the proposed ordinance is available in the Planning Office at 204 East Jefferson Street, Suite 4 during business hours.

Petitioner Presentation

Mr. Hauflaire clarified that there has never been a definition for multi-family in the ordinance. He stated that it was simply considered anything more than two (2). He stated that it is the only change that is being requested and that the purpose is to add clarification to the ordinance.

Audience Comments

There was no one to speak to the petition.

The public hearing was closed.

Staff Report & Discussion

There was no discussion amongst the Commission members.

Action

A motion was made and seconded, Huffman/Wellington, to pass along a favorable recommendation to City Council for 08-03OA. The motion passed, 8-0.

IX. Audience Items: None

X. Staff/Board Items: None

XI. Adjournment - 5:50

Respectfully Submitted:

Becky Hershberger, Recording Secretary

Approved By:

Jim Smith, President

Lovina G. Rutt, Secretary