

Hamilton County Plan Commission  
April 21, 2021

*Mr. Habig* called the official meeting of the Hamilton County Plan Commission to order at 7:02 p.m.

*Members present:* Diane Crim, Frank Habig III, Jim Galloway, Mark Heirbrandt, Steve Schwartz, Kent Ward, and Tom Clover. *Absent:* Bill Root and David Musselman. Also present: Byron Settles, Interim Director; Aaron Culp, Legal Counsel; and Cindy Duncan, Recording Secretary.

*Declaration of Quorum:* *Mr. Habig* declared a quorum with seven out of nine board members present.

*Guests:* See sign-in sheet.

*Communications/Reports:* Nothing to present.

*Approval of Minutes:* *Mr. Habig* identified the minutes of the March 17, 2021 meeting.

***Mr. Galloway moved to approve the minutes.***  
*Mr. Clover* seconded.

With no comments or corrections... *Mr. Habig* called for the vote. **6 yes votes... 0 no votes... 1 abstention.** Mr. Ward abstained. He was not at the meeting.

*Mr. Habig* stated that he did need a motion to approve the Executive Session Memoranda. [\(The executive Session was held in January.\)](#)

***Mr. Heirbrandt so moved.***  
*Mr. Ward* seconded.

With no comments or corrections... *Mr. Habig* called for the vote. **7 yes votes... 0 no votes.**

*Public Comment:* Mr. Habig opened the hearing to the public and invited anyone who wished to speak to the board on anything other than what was on the agenda to please step forward. And with no one stepping forward to address the board... Mr. Habig closed the public portion of the meeting.

*Correspondence:* Nothing to present.

*President's Report:* No Report.

*Old Business:* Nothing to present.

*New Business:* Mr. Habig began with **P.C.-P.P.-0001-04-2021**. This is a primary plat. It does concern developing a 24 lot subdivision. **Location: Oak Ridge Road between 231<sup>st</sup> Street and 236<sup>th</sup> Street on both sides of the road.** Would you like to step up to the podium?

**John Hefton** stated his name for the record. I am here to help represent Long Horn Run which is located in Sheridan near Baker's Corner. This is a proposed 24 lot subdivision comprised of lots that are all 3 acres or a little bit larger in size.

I am joined by **Doug Hall**, my engineer, and **Andy Wert** from Church and Church. We will all be available for questions.

**Andy Wert, a land use professional with Church, Church, Hittle & Antrim with offices at 2 North 9<sup>th</sup> Street, Noblesville**, stated his name, profession, employer, and employer's address for the record. The property is zoned A-2(s) which is agricultural subdivision. The subdivision meets the intent of the underlying zoning and will create lots at least 3 acres in size. We are attempting to respond to a real estate market that we believe is underserved in terms of single-family homes. The recent trend has been for smaller lots, smaller homes. There is currently a shortage of these types of lots available. Good schools and solid infrastructure are still important, and we will be contributing to that end with drainage improvements. It will include some off-site reconstruction of a segment of the regulated drain.

The lots will be served by individual wells and septic. There will be covenants that will set the standard for high-quality builds to be built in this development without the added burden of an HOA that would be part of a conventional subdivision.

The minimum house size would be 2,000 sq. ft. for a ranch; 2,500 sq. ft. for a two story. That contrasts with the 1,350 sq. ft. required by the zoning ordinance. Vinyl or aluminum siding would be prohibited. These homes would either be masonry, or a mason product, or a hardy plank exterior.

We have had several meetings with both the highway department and the surveyor's office. The lot drainage would be facilitated by roadside ditch improvements and a system of subsurface drains installed in the back yards. In addition, the William Baker Drain crosses our property a little north of mid-way. The existing drain downstream from our site is an 18" tile in need of an upgrade. We are proposing to retrofit that back to an open ditch as is shown in your 2020 Comprehensive Plan Update. We pledge to continue to work with the neighbors and the drainage board on the best course of action.

We have also committed to accept shared driveways as requested by the highway department to reduce the road frontage from 24 to between 12 and 14. We are requesting to keep the option for two individual drives to accommodate a tree preservation and

maintain the integrity and appeal of the heavily wooded lots.

We did make some minor changes to the plat layout since it was first filed. Mr. Settles has seen this. We have copies that we can distribute, if you so desire.

We are straightening out the new ditch in places and will use or reduce the overall length to improve the positioning relative to the new lot lines.

Finally, we have upsized the proposed culvert replacement under Oak Ridge to a 12 by 8 instead of a 12 by 7. We also added wing walls to it.

We did send out our certified mail notices to, I believe, its 12 surrounding property owners. We have communicated with many of them.

We believe our proposal is beneficial to Hamilton County in many ways by adding to the tax base, providing needed housing options for Hamilton County residents and improving local drainage. We look forward to your feedback and questions.

*Mr. Ward* asked *Mr. Wert* about the off-site drainage. You were told that an open ditch would be possible, if, and only if, all the people downstream that currently have a tile would sign off on that. I've heard reports that the developer or somebody representing the developer has been telling these people on the downstream side that they have to take that open ditch. I don't like that, especially, when they have been told that... only if those people approve it, will that open ditch be done. Otherwise, it's tile. I'm a little upset about that and I don't like it.

*Mr. Wert* stated that he would let *Mr. Hefton* address that. We are committed to working with the neighbors.

*Mr. Ward* stated that it sounds like there has been a communication failure. That needs to be solved. I would recommend to this board tonight that we table this until this gets ironed out. The drainage has not been approved by my office and we didn't even know about an updated plan until yesterday. Where's that plan been?

*Mr. Wert* stated that it has been in the works, *Mr. Ward*.

***Mr. Ward*** stated that he did not have enough information to approve the drainage at this time. ***I recommend tabling.***

*Mr. Hefton* asked who made the comment and who he needed to potentially address that with.

*Mr. Ward* stated that it was one of the downstream landowners.

*Mr. Hefton* stated that he has had communication to some level with each of the downstream landowners. I would take issue with that result that has been obviously

conveyed to you. I have not expressed at all... in fact, when I've had communications, I've made it clear that this is not approved, and I will need buy-in and cooperation from the owners. I understand mis-communications happen, but as I stand here, I can tell you that nothing that I said, I believe, should have been construed that way. If it's taken that way, then I'll absolutely make that right, but I have not conveyed that.

*Mr. Ward* stated he would like to see that from the landowners in writing.

*Mr. Hefton* stated that he has also made it clear that if that were done that access has to be worked out because obviously a ditch is now cutting the field in a north and south half. For this to even work on the face that has to be addressed and I brought that up as well. I'm not representing that I brought it up completely with everyone. I've tried to make attempts to each of the 12. I've talked with most of them. I've attempted to talk to the ones that I haven't. I'm here tonight to say that I'm definitely willing to continue to talk to anyone who would like too, but I wanted you to know that if that is what was taken there was "zero" intent and I can say with integrity that I did not intend to represent anything of the sort.

*Mr. Habig* asked *Mr. Ward* for clarification that he had not had enough time to go over this.

*Mr. Ward* stated that *Mr. Settles* got the information and then conveyed it to *Mr. Conover* yesterday afternoon and we did not have the time to look at it for this meeting.

***Mr. Galloway seconded the motion to table.***

With no further comments... *Mr. Habig* called for the vote to table the petition until Wednesday, May 19, 2021 at 7:00 p.m. **7 yes votes... 0 no votes.**

*Mr. Heirbrandt* stated that I know that there are several people that have come here tonight. Some might not be able to make it to the next meeting and I want to be very conscious of them. They came here tonight in order to speak and we can get them on the record if they have any issues with it. What is anyone else's thought on the board?

*Mr. Ward* and *Mr. Galloway* both stated they thought it was a good idea.

*Mr. Galloway* added, it's a public hearing.

*Mr. Heirbrandt* stated that these people took the time to come here tonight and I don't want to have to just send them home without making a comment.

*Mr. Habig* stated that with that being said... I would open the public hearing at 7:18 p.m. to anybody who is at this meeting and would like to come forward and speak for or against this. Please step up to the podium, state your name and address for the record.

**Brian Millikan** stated his name for the record. I really have a concern on the drainage issue in particular because I've seen water rushing through this area and it has actually changed the contour of it. It's not even close to the Hamilton County tile now. It's moved north so for this to have development in this area... I'm not against building homes. I do it for a living. I do remodel work. But, I'm not sure that this is a good idea especially in the low land where this county tile goes through.

You can do all you want on an open ditch in this area. You've got 400 acres. You've got 200 to the west and you got another field that comes over into that. If this keeps rushing through there and, for the drainage, you think you might have it fixed – I'm gonna tell you right now, your guys don't have any idea how much water runs through this area. I've seen it over my head in the field behind our property.

One other question that I have for you guys, what happened to the 5 acre rule for Adams Township? I know you guys are saying that this is a subdivision. Honestly, it's not.

*Mr. Habig* stated that it was actually a 10 acre rule.

*Mr. Millikan* stated that back when they first did it... it was 5 acres. Then if you were a family member you could go to 3 acres. I think you guys changed it to the 10 acres a couple years later or whatever. I'm still saying... what happened to this rule in Adams Township?

*Mr. Galloway* stated that the 10 acre rule is still there. But this is an A-2(s) District and in an A-2(s) District you can subdivide. You can do a subdivision with lots 3 acres or greater. It's in the ordinance to be able to do that.

*Mr. Millikan* stated that he always considered a subdivision to have water and sewer, and a holding or retention pond.

*Mr. Culp* stated that under Indiana Law... a subdivision is when I take one parcel and I divide it into two or more parcels. So when we're saying subdivision we're not talking about what you're thinking as a housing subdivision. We are saying... to subdivide the property and there is a set of rules that govern a subdivision of property.

*Mr. Millikan* stated that then the wording needs to be changed but that's the first thing that I think of.

**Unidentified male person:** It's in a floodplain. This is a floodplain. (2) I had a person tell me this was a floodplain. (3) The water that goes through there could swim a horse. It's a floodplain.

*Mr. Culp* stated that it was not a floodplain. (2) We go by the map that's put together that comes out and designates that.

With no further comments from those present... *Mr. Habig* stated that this is tabled until the next month's meeting and he would appreciate it if everyone could make it back for that meeting. I appreciate you attending. I'm sorry that we had to table it.

*Mr. Habig* continued with **SBZA-L.U.V.-0003-04-2021**. This is a Land use Variance. We are passing a recommendation on to the South BZA. It is concerning allowing for the use of a contractor's office for a home improvement business from the previous use of a multi-family residence. They are also asking for a commercial accessory structure 24 ft. by 30 ft. for materials and vehicle storage. **Location: 11790 State Road 32 East, Noblesville, Indiana.**

**Steve Taylor** stated his name for the record. Thank you for the opportunity to be here. I'm the owner of Taylor Home Improvements. We operate in this building as our functioning offices. I am going to turn this over to **Andy Wert** to go into more detail for you and have the discussion.

**Andy Wert, a land use professional with the law firm of Church, Church, Hittle & Antrim with offices at 2 North 9<sup>th</sup> Street, Noblesville,** stated his name, profession, employer, and employer's address for the record. Mr. Taylor operates Taylor Home Improvements with his son, Adam. This is for office use. There are no building materials stored at the site. There are five individuals in the office during the week. Two crew leaders will drop by once or twice a week for consultation.

Taylor Home Improvements has been in business since 2014. They have been based out of this location since 2019. Last year Mr. Taylor learned that his property was not properly zoned for a contractor's office. He contacted our firm and I have been working with Mr. Kiphart for almost a year now to move this forward.

Before we appeared before the board of zoning appeals, we want to make sure we had everything buttoned up specifically building codes and the Indiana Administrative Codes dealing with on-site sewer systems. In January we received approval of a rule 13 request. A Rule 13 is a provision of the Indiana Administrative Code providing for the economically efficient re-use of buildings.

Our building was constructed in 1987 as a duplex. There was an inspection of the premises conducted to determine if the proper egress existed and the inspection resulted in a Construction Design Release being issued.

We have also been working with the Indiana Department of Health on the existing septic system and the Hamilton County Health Department has been in the loop on this as well. IDOH has a change of use process that we undertook which involved an inspection and an evaluation of the existing system at the state level. The result of that was approved by commercial plan reviewer, Dave Muntz, subject to three conditions that we are committed to following through with.

Our first thought was to re-zone the property. The building was built in 1987. Truck traffic has increased substantially at this site. The building sits very close to the road. It has quite and unattractive residential use. We looked at your comprehensive plan and your most recent land use plan shows the area as developing as a mixed use. We also looked at Noblesville's Comprehensive Plan and that plan indicates a mix of commercial and infill residential.

The last several months have demonstrated a strong interest in development in this direction from Noblesville. This far southwest is the cross-roads project presented by Corby Thompson which is a mixed use proposal of approximately 80 acres. The sewer plant plan on State Road 38 just west of Boden; across the street from that is a residential project.

We digested all this data, conducted a detailed analysis, and reached the conclusion that we don't know what is going to happen around us. We don't believe that the property is right for re-zoning at this time. The highest and best use may very well end up being commercial. It may be residential. It could be part of the mixed use project.

We're not utilizing the property efficiently as it is. It's long and narrow and the business only occupies the southern 25 percent of the parcel.

We are looking for a favorable recommendation so we can move forward.

*Mr. Ward* asked *Mr. Wert* for clarification that there would be no outside storage of materials. (2) Will they be adding additional paving to that site?

*Mr. Wert* stated that that was correct.

(2) *Mr. Taylor* confirmed that there are no plans to do further paving at this time.

*Mr. Habig* asked if the property behind the building was cash-rented out of farm ground. (2) I see that Noblesville's jurisdiction is within a quarter mile, maybe?

*Mr. Taylor* answered, yes. I rent the land behind there to farmers in the area. They put soybeans or corn on it. (2) Yes. I'm actually under Wayne Township from a fire department point of view. Chief Taylor is actually my support from the fire department.

*Mr. Galloway* asked *Mr. Taylor* when he purchased the property. (2) At that time was it a residential property?

*Mr. Taylor* answered, in the latter part of 2016. (2) When we found the property, we were led to believe and told that it was already light commercial by the seller and the real estate agent. I just took that for granite. A little over a year ago, I came to see *Mr. Kiphart* and ask him what I needed to do to get a permit to put a 4 by 6 ft. sign out in front with the name of our business so people who were looking for us could find us. That's when

he said that this wasn't light commercial. That's how all this had kind of evolved. When we started working on this Covid hit and slowed the whole process down.

I did immediately contact the Homeland Security and Fire Safety Division. It took many, many months for them because of Covid. They came out the later part of 2020 and went through our office building and gave me cart blanche approval on the fire extinguishers. We have fire detectors, smoke detectors, exit signs that illuminate should the power go out at all the exists. We have proper wiring throughout the entire building. So we met all the criteria that they were looking for to give us the approval from fire and safety.

*Mr. Habig* asked if anyone was living at the house.

*Mr. Taylor* stated that no one was living there. When we took it over it was three apartments and one of the apartments was functioning as a beauty parlor.

*Mr. Galloway* asked *Mr. Taylor* if he was the only commercial or home improvement company that's been in there.

*Mr. Taylor* answered, yes, they are. There was a pastor from a church up in Cicero living there, too. He actually owned the property and sold it to me.

*Mr. Ward* stated that if he remembered right, Ms. Cook lived in the house and had the beauty parlor beside it there.

*Mr. Taylor* stated that everyone had moved out at the time the property was up for sale.

*Mr. Galloway* asked for clarification on the 24 by 30 ft. building for storage of materials.

*Mr. Taylor* stated that there is a garage that is detached. We do a lot of roofing, gutters, and siding types of things. We'd like to bring them in and store them for a few days and then take them out to the job site.

*Mr. Ward* asked where the building would go.

*Mr. Taylor* stated it would be at the west end of the property. The existing garage is at the east end by the Baptist Church. We don't do any construction work there. No building. It is just offices for us to run the business from. I have an office manager and an office assistance that helps with paperwork and filing. I have a production manager who has office space there. Otherwise, anybody else is basically in the field.

*Mrs. Crim* stated that she could verify that *Mr. Taylor* was running a really nice operation. I've been in his office building. There is no one living there. I must admit when they first moved in, I was concerned about the vehicles because they do have quite a lot of trucks, but that has never been a problem. They have adequate parking. Basically, they don't have customers coming to the office. It's just the people that work there. They have improved the looks of the site a lot with the cosmetic things that they've done.

*Mr. Taylor* stated that they would continue to improve the looks of the building. We did put a new roof on it. I appreciate your comments. I live just a mile from there. I worked very, very hard at building a strong reputation and branding of our company in the Noblesville / Hamilton County area.

*Mr. Habig* stated that he would open it up to a recommendation.

***Mr. Schwartz made a motion to approve.***

*Mr. Heirbrandt* seconded.

With no further questions or comments... *Mr. Habig* called for the vote to pass on a favorable recommendation to the South BZA. **7 yes votes... 0 no votes.**

*Mr. Habig* continued with ***NBZA-L.U.V.-0005-04-2021*** a Land Use Variance. We are passing a recommendation on to the North BZA. This is concerning allowing an owner to operate a gunsmithing business from his residence. He will be the only employee and work will be done in a basement workshop. One to two customers per month No machining of parts and no firing of guns. ***Location: 1565 State Road 13 North, Anderson, Indiana.*** If you would like to step up to the podium.

***Joshua Mullins, of 1565 North State Road 13, Anderson, Indiana*** stated his name and address for the record. I am applying for this variance because I have to have a certain license through the ATF, and it has to do with the repairing of firearms. I do not intend to sell firearms at my house. I don't sell accessories to firearms at my house. And I don't machine anything to do with firearms at my house. This is basically just maintenance repair or mounting optics is what I generally do.

There will be no danger to the public or the health or safety. I do live in a rural area.

I don't plan on building any type of range on my property. I am just working out of the basement replacing parts of firearms. Stuff that mostly farmers would use getting rid of varmints. I do have a precision rifle company. I don't do any of that work on-site at my place. That is obviously a place where I can have 700 to 900 yard ranges and this is not possible in Hamilton County and never will be. Any time I do something like that it's generally off-site or out-of-state.

The reason I do have to have this variance is because I deal with firearms. That can help me protect myself and protect anybody else. I wouldn't want to work on a firearm and then that person be a criminal or something like that. Working with the ATF I can do background checks and things like that. Are there any questions for me?

*Mr. Ward* asked for clarification that he would not be adding another building or any paving.

*Mr. Mullins* answered, no. When someone comes to drop off a firearm the transaction literally takes seconded. I have a three lane driveway.

*Mr. Heirbrandt* asked about security cameras.

*Mr. Mullins* answered, no. Generally, I have one to two customers a month. Two customers a month is the absolute most I can do.

***Mr. Schwartz made a motion to approve.***

*Mr. Ward* seconded.

With no further comments or questions... *Mr. Habig* called for the vote to pass on a favorable recommendation to the North BZA. **7 yes votes... 0 no votes.**

*Director's Report:* *Mr. Habig* stated that they were trying to figure out the best way to go through the candidates for the director's position for the plan commission. We are trying to get it down to three people. To do this fairly, *Mr. Culp* and I figured we should allow at least an hour not that it would take an hour per but just in case we would go over. This is going to require somehow to get together outside a regular meeting. I know that it's tough on everybody to make it once a month, but it is pretty critical that we get this done. We would probably know candidates in another 30 days.

*Mr. Settles* responded, hopefully so. Human Resources re-opened the posting for it. I had them also add the job description on the American Planning Association – Indiana Chapter's website. It will also go to any social media accounts that they have as well as any newsletters that go out.

*Mr. Schwartz* asked how they were going to refine it to three. (2) Would this be a recommendation to the commissioners for all three candidates?

*Mr. Habig* stated that HR was doing that. They will narrow it down to the three best candidates.

*Mr. Heirbrandt* stated that the HR department typically interviews all the people and will take them down to three people. Then they usually have us interview. (2) It goes to the plan commission.

*Mr. Schwartz* asked if that recommendation would then go to the commissioners for all three candidates.

*Mr. Culp* stated that the plan commission will choose the one that they want to hire as the next planning director.

*Mr. Schwartz* asked if that recommendation went to the commissioners because ultimately that will be a county employee.

*Mr. Heirbrandt* answered, no. This is an entirely separate board, and this is where the decision gets made.

*Mr. Culp* stated that the final decision is with the plan commission.

*Mr. Ward* asked *Mr. Settles* to also get with AIC and see if they can put it on their website.

*Mr. Settles* thanked *Mr. Ward* for his suggestion.

*Mrs. Crim* asked if there had been many hits.

*Mr. Settles* stated that they have had five people that applied the first time they had it open. We just re-opened it and I think we've had one so far.

*Mr. Clover* asked how long it was open previously.

*Mr. Settles* answered, two weeks.

*Mr. Habig* stated that this was a pretty important decision. I would sure like to have all nine members on board.

*Mr. Heirbrandt* stated that this is too important. We need to keep it open until we find the right candidate. I think *Mr. Culp* has been a tremendous help and resource.

Discussion continued on the process of finding a new director.

*Legal Counsel Report:* No Report.

The next plan commission meeting will be Wednesday, May 19, 2021.

With no further business to come before the board... *Mr. Habig* adjourned the meeting at 8:00 p.m.

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Frank Habig III, President

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Date

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Cindy Duncan, Recording Secretary

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Date

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Linda Burdett, Secretary

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Date