

Hamilton County Plan Commission
August 18, 2021

Mr. Habig called the official meeting of the Hamilton County Plan Commission to order at 7:01 p.m.

Members present: Bill Root, Diane Crim, Frank Habig III, Jim Galloway, Kent Ward, Mark Heirbrandt, Steve Schwartz and Tom Clover. *Absent:* David Musselman. *Also present:* C. J. Taylor, Director; Byron Settles, GIS / Media Specialist; Aaron Culp, Legal counsel; and Linda Burdett, Secretary.

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

Guests: See sign-in sheet.

Communications/Reports: Nothing to present.

Mr. Habig welcomed C. J. Taylor, our new planning director, to the board.

Approval of Minutes: ***Mr. Habig identified the minutes of the April 21, 2021 meeting.***

Mr. Ward moved to approve.

Mr. Heirbrandt seconded.

With no comments or corrections... Mr. Habig called for the vote. **8 yes votes... 0 no votes.**

Mr. Habig then identified the minutes of the June 22, 2021 meeting. I'll need a motion.

Mr. Galloway moved to approve the June 22nd minutes.

Mr. Ward seconded.

With no comments or corrections... Mr. Habig called for the vote. **8 yes votes... 0 no votes.**

Mr. Habig asked for approval of the Executive Session Memoranda from June 16, 2021.

Mr. Schwartz so moved.

Mr. Ward seconded.

With no comments or corrections... Mr. Habig called for the vote. **8 yes votes... 0 no votes.**

Public Comment: Mr. Habig opened the meeting to the public and invited anyone who wanted to bring up anything that was not on the agenda to step up to the podium. 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: Mr. Habig continued with **P.C.-P.P.-0001-04-2021** a primary plat. The petitioner has request to table this for tonight's meeting. It will remain tabled until September 15, 2021 at 7:00 p.m.

New business: Mr. Habig began with **P.C.-ReZone-0002-07-2021** this is a re-zone. We had to postponed in July. We are passing a recommendation on to the county commissioners. It concerns re-zoning a 10 acre parcel from an A-2 / F.P.D. (Agricultural / Floodplain District) to a C-1 / F.P.D. (Commercial / Floodplain District Residential Character.) This is a proposal for an indoor boat and RV storage facility. **Location: 13070 Strawtown Avenue, Noblesville, Indiana.** Would you like to step up?

Andrew Leeman, of 13070 Strawtown Avenue, Noblesville, Indiana, stated his name and address for the record. There will be somebody else speaking for me. September 11, 2021 I'm getting married. My fiancé, Jewel Farnsworth, is with us and I'm so happy.

Mr. Habig congratulated them.

TJ Elbert, stated his name for the record. I am trying to buy the property from Andy Leeman for boat and RV storage. Mr. Leeman parceled off 10 acres a few weeks ago. Of that 10 acres about half of that is in the floodplain. The other part is up near Strawtown Avenue and is the area that I would be interested in building a couple of building.

Mr. Heirbrandt asked Mr. Settles to explain some of their conversations.

Mr. Settles stated that Mr. Kiphart had met with Mr. Elbert. Mr. Kiphart had conferred with me and said the C-1 classification does allow boat storage and basically the general use he was looking for so that is the reason behind why he guided him towards the C-1 re-zone. It got tabled because the 10 acres had not been split out yet.

A majority of the 10 acres and the lower portion does reside in the floodplain. The area he is looking at is the narrow portion up along Strawtown and that is the higher area.

Mr. Heirbrandt asked for clarification that that area was not in the floodplain. (2) Mr. Ward, has your office been notified at all on this?

Mr. Settles answered, correct.

(2) *Mr. Ward* answered, we have. But we were under the understanding that these buildings would be outside the floodplain. Do we have a survey of that?

Mr. Elbert answered, yes.

Mr. Ward asked *Mr. Elbert* if he was re-zoning the entire 10 acres for commercial including the floodplain area. (2) *Mr. Settles*, why are we not having a legal description of the non-floodplain area?

Mr. Elbert answered, I believe so, yes.

Mr. Settles stated that *Mr. Kiphart* said when you're doing a re-zone you re-zone the entire property. Even though you're re-zoning for commercial use it's the floodplain which prohibits you from being able to use that portion that's in the floodplain.

Mr. Heirbrandt asked *Mr. Culp* for his legal opinion on this.

Mr. Culp stated that we don't re-zone a part of the property. When you re-zone a parcel you re-zone the entire parcel. As *Mr. Settles* just stated, the rules governing the floodplain, the development standards and everything else would still be in effect. So they still won't be able to go down into that floodplain regardless if it's left in its current state or moved to a C-1.

Mr. Ward asked if they understand that.

Mr. Elbert answered, yes.

Mr. Habig asked if the boat storage was strictly boat storage. There would be no mechanical work or anything like that?

Mr. Elbert answered, correct.

Mr. Heirbrandt asked... no restroom?

Mr. Elbert answered, correct.

Mr. Habig asked about what was on the property right now.

Mr. Elbert stated there was currently a barn on there. It's 26 ft. by 50 ft.

Mr. Galloway asked if the barn would be replaced by buildings for the boat storage or are you keeping the barn.

Mr. Elbert answered... I would like to build one building and as that fills up then tear down the barn and then build in a similar location as to where that one is and have two and maybe one extra.

Andrew Leeman restated his name for the record. I built the barn. It was originally built years ago at 145th Street and Cumberland Road. It was moved in one piece to that location with a building permit from Mr. Kiphart. He had me re-build it to commercial standards. The building permit should be on file.

Mr. Habig asked what they were opening this up to if the boat storage does not float and it's re-zoned to a C-1. What else could go in there? (2) What is the closest C-1 we have along Strawtown Avenue?

Mr. Settles read the list to the board and all those present. (2) I don't know of any on Strawtown Avenue.

Mr. Galloway asked if the businesses along State Road 37 were commercial or were they just grandfathered in.

Mr. Settles answered, yes. Once you get to the intersection of Strawtown Avenue and State Road 37 going north and south there are the pre-existing commercial designations that were there when the office was created.

Mr. Elbert advised the board that he was also seeking a variance for the setbacks off the center of the road. If there were other types of businesses that were interested in doing something there, they would probably need variances as well. It's a pretty narrow strip of land.

Mr. Galloway asked if they could put restrictions on re-zones.

Mr. Heirbrandt stated that from what he understood they could.

Mr. Culp stated that if the commissioners were to approve it, they could try to attach conditions too as part of the approval because that is a legislative act.

Mr. Heirbrandt stated that it should be suggested by this board if we move forward.

Mr. Ward asked Mr. Taylor if the board made the recommendation that the commissioners grant the re-zone since it's a commercial site will it still have to go before T.A.C.

Mr. Taylor stated that he would guess so, yes.

With no further questions from the board... Mr. Habig opened the hearing to the public at 7:20 p.m. and invited anyone who wished to speak for or against the petition to please step forward.

Andrew Leeman stated his name for the record. I'm for this. The building that is existing does have a building permit and it does meet the setback requirements.

With no one else stepping forward to address the board... Mr. Habig closed the public portion of the hearing at 7:20 p.m. and asked for a motion. We are passing a recommendation on to the county commissioners.

Mr. Schwartz made a motion to pass forward to the county commissioners in favor of this.

Mr. Galloway seconded for discussion.

Mr. Heirbrandt asked Mr. Culp to advise the board on the description that they should put on this motion to move forward.

Mr. Culp asked if there were uses permitted under C-1 that the board definitely doesn't want to see there.

Mr. Heirbrandt asked if they could be specific to his requirements and leave it at that.

Mr. Culp stated that if the board were limiting the use that much they were just turning it into a land use variance. I would be concerned about putting that amount of conditions on a re-zone. I would want to check with Mr. Howard as well because obviously he is the commissioners' attorney before we did that.

Mr. Galloway stated that personally he didn't think he was in favor of a favorable recommendation to the commissioners because of the property itself. It's not really very usable. And there is nothing else around it that's commercial; it's all residential across the road.

Mr. Ward stated that personally he would be much more comfortable if the usable area was separated out by deed and sold separately. And therefore, re-zoned separately. I just have a queasy feeling putting a commercial designation on a floodplain. That just gives somebody an argument in the future to use it for commercial.

Mr. Galloway stated that that wouldn't fly under our current floodplain rules and I don't see that getting any less than it is now. If anything, it would be more stringent.

Mr. Culp stated that one of the reasons that the lot is this size is because they had to meet the 10 acre rule.

Mr. Habig stated that they could attach that as a condition. At least that way we would have that protection.

Mr. Schwartz restated his motion to pass on a favorable recommendation to the county commissioners with a condition that prohibits all building in the floodplain area of the lot.

Mr. Galloway seconded.

With no further comments... Mr. Habig called for the vote. **6 yes votes... 2 no votes.** Mr. Habig and Mr. Galloway voting no.

Mr. Habig continued with **SBZA-L.U.V.-0008-07-2021** a Land Use Variance. This was postponed in July. We are passing a recommendation on to the South BZA. It does concern allowing a portion of the property to be used for the specific commercial use of cabinetry and specialty furniture manufacturing business with three total employees and a potential maximum of five total employees. The owner will also construct a single family residence on the rear portion of the property. **Location: 16175 East 216th Street, Noblesville, Indiana.** Is Mr. Thomas here?

Dave Coots, with the law firm of Coots, Henke, Wheeler, stated his name for the record. I'm here representing Mr. Chad Thomas and his wife, Alyssa who are seated. Mr. & Mrs. Thomas acquired the 20 acre parcel for the purpose of constructing their single family residence. They presently live a quarter of a mile away on Cyntheanne Road.

The intent is to obtain a use variance for Mr. Thomas to relocate his cabinetry manufacturing business to an approximately 7,000 sq. ft. barn that he will construct. It will be about 5,000 sq. ft. with a loft for storage of raw and finished products.

All of his work takes place within the building. He has no outside storage. His deliveries come on a flatbed truck. He intends to construct a horseshoe off of 216th Street.

The county highway has requested that those two entrances be commercial curb cut requirements; that they be 200 ft. apart; and that the road be 50 ft. from the centerline of 216th Street. That will enable him to have a delivery truck that comes about once every six weeks to deliver his wood products.

His business is internet driven. All of his orders come by internet. Mrs. Thomas is the office manager, the bookkeeper, the receptionist, the whatever.

Mr. Thomas currently has two other workers in his workshop manufacturing tables, bureaus, desks, woodcraft materials.

Once it's manufactured, it is picked up by a van service, and removed from his shop, and delivered to the customer. Most of the customers are out-of-state. Although he does serve a wide variety of customers in central Indiana.

The tract itself is a half a mile deep and 373 feet wide. To place the barn and also construct a driveway 3/4th of the way down that half mile to the south where the house will be built, he would like to move the barn 25 ft. off the west property boundary instead of the required 50 ft. That developmental standards variance we are asking the board of zoning appeals to grant as well.

After we filed the application Mr. Settles recommended that we also seek a developmental standards variance on the size of the barn itself as an accessory building. The ordinance permits 5,000 sq. ft. for an accessory building. This will be 7,000 sq. ft.

The parking will be limited for employees only. Mr. Thomas does not have traffic coming to his cabinetry shop. All of his products are displayed on-line, brochures, word of mouth. He does not have a showroom.

We're happy to answer any questions you may have. We are merely asking that you make a positive recommendation to the south board of zoning appeals for the use variance and to approve the development standards variance.

Mr. Galloway asked where Mr. Thomas operated out of now.

Mr. Coots stated that his business is at his home on Cyntheanne Road. He has outgrown that facility and needs to move to a larger facility to accommodate deliveries that are difficult to manipulate off of Cyntheanne Road.

Mr. Heirbrandt asked if there was a restroom in the facility. (2) Have you had any conversations with the surveyor's office?

Mr. Coots stated that there would be two restrooms in the new barn for employees. It will be on a septic system and a private water system. We're talking with the health department now over whether or not it can be combined with the septic system to serve the residence to be built. It all depends on size and volume. (2) We have and we have a letter from the surveyor's office saying they have no problems with it. We have an email from the county highway department that sets forth what I recited.

Mr. Habig asked... at the entrance what is the purpose of the 40 by 20 ft. concrete pad. (2) And then the trucks that would be picking up the finished product would come all the way back to the barn?

Mr. Coots stated it was to off-load the lumber. He has a skid loader that he uses to take the material off the truck, and he sets it there to then relocate it into the barn. It takes about 15 minutes to do that. (2) Correct. Mr. Thomas described the deliver vans to me as Amazon looking vans. It is not an over-the-road shipping truck.

Mr. Ward asked Mr. Taylor if since this was a commercial item it will go to T.A.C. also. (2) So, we won't see the final plan for drainage?

Mr. Taylor stated that he didn't think so. (2) You should have to approve drainage before he can get a building permit.

With no further questions from the board... Mr. Habig announced to everyone present that this was not a public hearing. If there is anybody here that is concerned for or against

this project you will return to the South BZA meeting which will be here next Wednesday, August 25th at 7:00 p.m.

Mr. Ward asked *Mr. Coots* about the Frank Huffman drain which ends short of the petitioner's west property line. Would the petitioner have issue with extending that drain by petition to the drainage board for that distance to his west line?

Mr. Coots answered, I would say no. None whatsoever.

Mr. Galloway moved to send this to the South BZA with a non-favorable recommendation as to its compatibility with the comprehensive plan.

Mr. Ward seconded for discussion.

Mr. Galloway stated that people said they didn't want more residential and businesses in certain locations. So, we left our 10 acre rule and we left our 330 ft. of road frontage. So now if someone buys a 20 acre lot that limits them to one residence because it's a half a mile deep.

Mr. Habig stated that he would fall in there with *Mr. Galloway*. If we allow some commercial activity to go on in an A-2 I think it is just tipping the iceberg.

Mr. Galloway stated he just doesn't think it fits the comprehensive plan. Just because we don't make a favorable recommendation to them doesn't mean that they're going to turn it down.

Mr. Heirbrandt asked *Mr. Culp* for his thoughts.

Mr. Culp stated that what we're looking at is whether or not we think it is compatible with the comprehensive plan. It's not my role to tell you how to decide that but that is the question that the board has to decide.

Mr. Habig stated that it looks like this was a 60 acre field that's been cut into three 20 acre parcels.

Mrs. Crim stated that he will have his private residence there. And if he doesn't mind looking at the shop that is going to be out in front of his house between him and the road what's the difference between that and the other several dozen businesses we have in Wayne Township where people have a small business at their home in another building. I suppose you could say they were grandfathered in because they were there before this comprehensive plan but its kind of the American way. If you can have a business where you live, I think that's wonderful. And he's not going to have customers coming and going and lots of traffic. Look at all the traffic we have back and forth among some of the big farms that we have. Look at all the big trucks that are in and out during...

Mr. Galloway stated that these people don't mind having their business there because that's what they want. How about the other people in the neighborhood?

Alyssa Thomas, of 21218 Cyntheanne Road, stated her name and address for the record. I appreciate your point. I stay home with our two kids. I do the books and talk to customers. What a joy it has been to have him near our home. Our kids get to see their dad more. The evenings are a lot better. There's not that super long commute. It is not a nuisance. We have had no issues with our neighbors. There is no traffic. We don't allow people to come. There are not a lot of people in and out. No one would even know. We are honest people and we want to do this the right way. We've grown a lot bigger than what we ever would have imagined, and we need to relocate. It's that American dream where we are there; it's quiet; we're way out in the country and nearly every property has a huge barn for whatever it is that they're doing. And this really wouldn't be any different than that. We're really thankful for your consideration.

Mr. Galloway stated that the board's duty is... is it compatible with the comprehensive plan. It's not how intense the use will be. A commercial building on a lot out there with enough road frontage for one building or one house is that compatible to allow a business and two places on 375 ft. of road frontage. Does that follow the comprehensive plan and I don't think it does.

Mr. Habig stated that he looks at it the same way. There is nobody else out there. It is a lot of farm ground. What a great life that would be to have your beautiful home and your business there. I agree wholeheartedly. But, are we ready to go ahead and open up this whole area to anybody who wants to buy 20 acres and put their house and a small shop to where maybe they're redoing cars, or this or that? If this is what we want in Hamilton County, we'd better be prepared for it if we let this go.

Mr. Coots stated that you and the board of zoning appeals have the authority to determine whether or not there is an auto repair facility that you allow with noise and traffic. The comprehensive plan is a guide; it's not a law. And you are permitted to adapt it under circumstances where the circumstances warrant it.

Mr. Heirbrandt asked Mr. Coots how long the Thomases have owned the property. (2) Was your initial plan when you bought it to have your home and your business in the same place?

Mr. Coots answered, since last year.

Mr. Thomas answered, yes.

Mr. Heirbrandt stated that he was trying to substantiate that did they have this property prior to when the comprehensive plan was actually approved. And whether they invested some of their money not knowing it could have been changed or altered before they bought that property.

Mr. Galloway stated that the comprehensive plan really didn't change. It ended up being very similar to the existing plan.

Mr. Schwartz stated that what he doesn't care for is that it pretty much eliminates anybody else from coming forward and making these requests if this is the rock-hard decision that's made here tonight. It pretty much sends a message to anybody else who wants to apply for this that it's not going to fly, period. That's not a message I really want to send. I understand the comprehensive plan. I think it's a good basis to work from, but I still would like to see individuals come and make these requests each time somebody has an idea.

Mr. Heirbrandt stated that he respects the opinion of the comprehensive plan. I think it serves a great purpose in what we do. I could go either way. I do agree with Mr. Schwartz and Mrs. Crim's comments that you always live for the American dream and this is what you want to be able to do. I think this is more of a discussion for the South BZA and that's their decision to decide.

Mr. Galloway stated that maybe he was wrong. I thought it was our job to decide whether this is compatible no matter who it is. The BZA's job is to, and the neighbors and everybody else will be involved then, decide whether they should allow this or not. Just because it is not compatible doesn't mean that they won't allow it.

Mr. Culp stated that Mr. Galloway is correct. Whether or not this is compatible with the comp plan is the limit of what we're looking at here tonight. The other thing to keep in mind is just because parcel A you decide that is compatible doesn't mean that the adjoining parcel you might not make a different decision. You're not going to find two identical lots. That's why we have this entire process. When we have a "one size fits all zoning ordinance" we know it's going to affect lots differently based on their geography, their topography, what's next to them, based on what's under the soil. You could look at their lot and determine the comp plan says that doesn't fit but for some condition of the land or the way the ordinance affects it you might look at the lot next to it and say but I think the comp plan would allow it. That's why we have to treat each piece of real estate as unique and it's not setting a precedent.

Mr. Root stated that this might be a little different from the party barn they looked at a couple of years ago. The party barn was when you're bringing a lot of people into an establishment.

This is more of a small production type operation similar to what they have in agriculture. You have a small number of employees that come in and you have in-puts and you put the stuff together and then you have out-puts and that seems to be what we're talking about here.

If you had retail outlets where you had a lot of people coming in off the street and they're buying a whole bunch of goods that would be a big disturbance to your neighbors.

This might be more in-line with what we see in A-1 type establishments.

Mr. Ward stated that to him this falls more in-line with the gun shop in White River Township. It's unfortunate that we don't have the ability to hear the public input but the BZA does. Perhaps we want to send no recommendation to the BZA and let it fall on their shoulders.

After some discussion... Mr. Galloway withdrew his motion.

Mr. Ward withdrew his second.

Mr. Ward asked *Mr. Culp* if the BZA could put a restriction on it that this be the only business that would be allowed in there.

Mr. Culp answered, yes. The BZA could put any number of restrictions. They could put more than you could on a re-zone.

Mr. Habig asked if they could include that here too.

Mr. Culp answered, yes, if you wanted to recommend something.

Mr. Clover asked if the BZA could specify that it only be used for the petitioner's purpose.

Mr. Taylor stated that they could also attach it to the owner or to the property.

Mr. Culp stated that most use variances are very specific anyway. If the BZA thinks it needs to be narrowed further, they can add those conditions. Then we require that they be reduced to writing and any conditions recorded so that it's in the chain of title and it's clear for any future buyers that that's what they're getting.

Mr. Settles added... The initial thought was a potential re-zone and for the use he's looking at it would be M-1 or M-2 which is very wide open with a lot of uses. As everybody said here, the benefit of the land use variance is you can narrow down the use and restrict it.

Mr. Coots stated that he would be happy to work with staff to create those restrictions before we appear before the BZA as to restricting it to this land owner, to this use, hours of operation.

Mr. Ward moved to send this on to the South BZA with no recommendation.

Mr. Galloway seconded.

With no further discussion... *Mr. Habig* called for the vote. **8 yes votes... 0 no votes.**

Mr. Habig continued with ***P.C.-P.P.-0003-08-2021*** a Primary Plat – Burrow Estates. This concerns subdividing a 14.89 acre parcel of land into two lots. Lot number 1 to be 8.41 acres and Lot number 2 to be 6.48 acres. ***Location: 15215 East 191st Street, Noblesville, Indiana.***

Mr. Culp stated that ***the petitioner was going to ask that this be tabled.*** There was a notice issue. There is one person who should have received a certified letter who did not. He has complied with the rest of the notice. He has asked that this be tabled and put on our agenda for...

Mr. Habig continued... Wednesday, September 15th at 7:00 p.m.

Mr. Schwartz made that motion.

Mr. Clover seconded.

With no further comments... Mr. Habig called for the vote. ***8 yes votes... 0 no votes.***
This is tabled until next month.

Director's Report: Mr. Taylor stated that he had passed out his report. If you have any questions, feel free to ask and by all means, our office is open. If you have any questions, comments, or concerns please feel free to call, email or come up to see us. I would be happy to meet everybody one-on-one.

Mr. Heirbrandt stated that since Mr. Taylor has been on-board... I've had several complaints and different issues that have come to the commissioners that I've had to convey to Mr. Taylor and it's amazing how quick the response is. A permit was delivered to somebody's house today and they couldn't believe it. Some of the things that have happened, I'm really proud and thank Mr. Taylor for being here. That is the type of service that we expect here at Hamilton County. We expect it to be the best of the best, and you go above and beyond whatever the call is. That's why I'm really excited to have you on this team.

Mr. Taylor thanked Mr. Heirbrandt for the opportunity. By all means, if there is ever anything negative be sure to share it. If there is a problem, we will get it resolved.

Mr. Schwartz stated that his is pretty comfortable with the budget. Did we add some training in there?

Mr. Heirbrandt answered, yes, we did. That is important to have.

Mr. Heirbrandt made a motion to approve the budget.

Mr. Galloway seconded.

With no further comments... Mr. Habig called for the vote. ***8 yes votes... 0 no votes.***
That one is passed.

Legal Counsel Report: Mr. Culp stated that sometime in the next couple of months we need to look at our ordinances. Now that we've done the comp plan, we need to update our ordinances. We haven't done an overall review and attempted to update the ordinances in more than a decade at least. We want to make sure the ordinances are following the comp plan which is how it is supposed to be set-up. If we do that we may

conclude that it is 99% there but there may be a few things that we need to change. I am going to suggest, if the plan commission is ok with it, that we engage a consultant to assist us with that. There are consultants that do that, and if people were happy with Corrie Meyer, that is one of the things that she does. She is already intimately familiar with our comp plan having created it. If you would like we could request that she put together a proposal and bring that to you next month for review.

Mr. Schwartz stated that depending on that amount I would assume that it would have to come to council for an additional.

Mr. Culp answered, yes. It is not in the budget. It would be something that we need approval for.

The next plan commission meeting will be Wednesday, September 15, 2021 at 7:00 p.m.

Mr. Habig stated that he really appreciated the discussion tonight. It's good to hear everyone's view.

Mr. Schwartz and Mr. Heirbrandt agreed.

With no further business to come before the board... Mr. Habig adjourned the meeting at 8:14 p.m.

Frank Habig, III President

Date

Linda Burdett, Secretary

Date