

Minutes
Henry County Planning Commission
Called Meeting
May 19, 2016

The Henry County Planning Commission held a Regular Meeting in the Old Circuit Courtroom of the Henry County Courthouse, 101 S. Main Street, New Castle, IN 47362 on Thursday May 19, 2016

The meeting was called to order at 6:30 pm by President Steve Rust.

Roll was called. Board Members present were: Dale Cole, Joe Manis, Daniel Roach, Steve Rust, Olene Veach, Randy Jones, and Ed Yanos. Members absent, Steve Dugger. Also present, Darrin Jacobs Zoning Administrator

Case B: 2194

Mary E. Solada, of Bingham Greenbaum Doll LLP, 10 W. Market St., Suite 2700, Indianapolis, IN 46204; representing Ken Miers, requesting to rezone 16.125 acres from Highway Business One (HB-1) to Heavy Industrial (I-2) for the purpose of Operating a Trucking Operation. The property is owned by Miers Properties LLC., 5037 S County Road 100 E, New Castle, IN 47362 and is located on Parcel #004-00327-00, AKA 1126 W County Road 500 S (the site of the former Sky-vue Drive-in Theater) and in Franklin Township.

Commissioner Ed Yanos on the advice of legal counsel recused himself from this hearing.

President Steve Rust asked if the applicant was prepared to present. Mary E. Solada stepped to the podium to represent Ken Miers.

Mrs. Solada stated that Mr. Miers wished to consolidate his businesses on to one lot and that he believed that this location would suit his needs. Mrs. Solada stated Mr. Miers wished to operate his trucking and excavating business from the site along with hosting twice a year heavy equipment auctions. Mrs. Solada stated that the former Sky-vue ground is not farmable and would not be suitable for a subdivision. Mrs. Solada stated that Mr. Miers plans on adding an addition to the building and to plant trees around the perimeter of the property. Mrs. Solada stated that it's going to stay gravel and the business hours will be from 8am to 6pm. Mrs. Solada stated that Mr. Miers operation would be 800 feet from State Road 3.

Ken Miers stated that his business has been family run for 25 years and that he has union employees. Mr. Miers stated that he wants to expand his business and that the Sky-Vue would not be coming back. Mr. Miers stated that he would plant trees around the property and that the majority of his business would be trucking.

Dale Cole asked how many years Mr. Miers had been operating out of his current home location and what percentage of the business would be trucking? Mr. Miers stated he's been there 18 years and it has not received any complaints from the neighbors and that 95% of his business would be trucking. Dale Cole asked if he would be installing a new septic system and if he had plans to upgrade the entrance. Mr. Miers stated that he believed the state would require him to change the septic and that he would need state approval for any system they put in and that they would do some work to improve the entrance.

Olene Veach asked how many locations Mr. Miers is currently operating out of and if the operation could be considered a truck terminal. Mr. Miers stated that he had four entities and four different locations currently and that his operations are not a terminal because there will be no loading or unloading of cargo on his property.

President Steve Rust asked if anyone wished to speak in support.

Donna Smith stated at the Sky-Vue had generated a lot of trash and that she believed that the Miers operation would be clean and provide jobs.

Maria Kellam White stated that she believed Henry County needed growth and good paying jobs and that Ken Miers would provide that.

Aaron Stigall stated that he was a neighbor of Mr. Miers for 11 years and believed that he would run a good clean operation.

Tony Swann has lived on Fair Oaks Road since 1989 and he believed that it was a good location for Mr. Miers operation and that he would be a good neighbor.

Imogene Miers stated that she is Ken Miers wife and that they are a local family and are going to stay local. Mrs. Miers stated that they provide a lot to local charities and that their business would be better than an empty building.

Terry Gareth stated that the Miers family takes very good care of their property and that he believed that Mr. Miers would be a good neighbor.

Lori Apple stated that the county is not appealing and needs more businesses to attract families.

Lisa Herring stated that they needed more development in the county.

Donna Warner stated that the Miers family is a good family and that their business is a good asset for the community.

President Steve Rust asked if anyone wished to speak in opposition.

Bill Craig stated that he has lived on Fair Oaks Road for 40 years and he is concerned about diesel fumes and the quality of life in the neighborhood deteriorating. He stated that there are a number of children on Fair Oaks who have asthma and would hate to see what would happen if it was rezoned and a factory was put on the lot.

Linda Cain was concerned about noise, fumes, and the environment. She was also concerned about the visual impact on the neighbors.

Linda Coddington stated that she had fought against heavy industry in this area before and did not believe that trucks coming and going at all hours would fit into a residential area and would prefer to see something like a hotel.

Brenda Cox stated that there have been six generations that have grown up around Fair Oaks Road and she is concerned about the property values being lowered.

Jena Morey stated that she believed that it was a rural area when they bought the property to raise their six children. She stated that they have built a very nice home and she was concerned about what could come in the future and felt that they were assured that the zoning would stay residential.

Merrill Morey stated that he believed that the 3 and 70 interchange needed to be an attractive entrance to the county and that he believed that heavy industry in this area would discourage future restaurants and hotels from locating at the interchange. He also stated that he did not believe that heavy industry was in line with the County's comprehensive plan or other studies that have been performed.

Sheila Marion stated that she feels very protective of the neighborhood and feels that heavy industry would not benefit the area. She also stated that she thought that Mr. Miers could find a better location for his business.

Eddie Haggar stated he is not in opposition to the Miers family but feels that the zoning in the area needs to stay residential.

Jerry Cash was concerned about the precedent for rezoning to Heavy Industrial.

Kal Cain felt that 500 South was too narrow for constant semi-truck traffic.

President Steve Rust asked if there were any government bodies that wished to speak, there were none.

Randy Jones expressed concerns that Mr. Miers had not adequately answered the question of whether they would be able to comply with County performance standards

for heavy Industrial. Mr. Miers stated that he believed his business would comply with the County Code.

Steve Rust asked for Mr. Miers to go into greater detail about the auctions, about the trees that he proposed to plant and his plans with the sign. Mr. Miers stated that they would have an auction twice a year, and that there will be equipment parked 2 weeks before the auctions and probably would remain for a few weeks after. Mr. Miers stated that he planned to plant 4 foot tall trees in the fall to help screen the property from the neighbors. Mr. Miers stated that he might sell the movie screen or if he was able he might use it as a sign.

Dale Cole moved to recommend to the County Commissioners that the property be rezoned to Heavy Industrial (I-2).

No one seconded to the motion.

President Steve Rust restated the motion and asked for a second.

Motion died for lack of a second.

President Steve Rust stated if there were no other motions on the matter he would close the hearing.

Randy Jones moved for a 10 minute recess, Olene Veach seconded the motion
The motion carried 7-0

In other business

Prior to the Planning Commission hearing requests for extensions for two WECS projects, Planning Commission Attorney Sean Row read the following portion of the Henry County Development Code.

“The Commission Approved Use (CAU) granted by the HCPC for a WECS Project shall be valid for a period of one (1) year, after which approval shall terminate and be of no further force or effect if construction in earnest of the approved WECS has not commenced. The Applicant shall be granted one (1) extension up to one (1) year from the date of the HCPC approval if the Applicant presents its request for an extension to the HCPC which shows the progress made on the WECS Project. Thereafter, an additional extension shall be at the HCPC’s discretion.”

The Planning Commission Attorney stated that it was his interpretation that due to the “shall” written into the code that the Planning Commission was obligated to grant a one

year extension on the applicant's first request if the applicant can show that they have made progress.

President Steve Rust called for the next applicant on the Agenda.

Brenna Gunderson from Apex Clean Energy Inc. presented a request for a one year extension of their Commission Approved Use on the Flat Rock Wind Project.

Commissioner Ed Yanos on the advice of legal counsel recused himself from this request.

Mrs. Gunderson informed the Planning Commission of the progress that Apex had made on the Flat Rock Wind Project, including finalizing a decommissioning agreement with the County Commissioners and working towards a road use agreement.

Dale Cole moved to approve a one year extension for the Flat Rock Wind Project. Olene Veach seconded the motion.

Extension Approved 6-0 with Commissioner Ed Yanos recusing himself from the case.

President Steve Rust called for the next applicant on the Agenda.

Mary E. Solada representing NextEra Energy Inc. presented a request for a one year extension of their Commission Approved Use on the Whitewater Wind Project.

Commissioner Ed Yanos on the advice of legal counsel recused himself from this request.

Mrs. Solada informed the Planning Commission of the progress that NextEra had made on the Whitewater Wind Project, including receiving approvals in Fayette County and continued discussion with power companies.

Joe Manis moved to approve a one year extension for the Whitewater Wind Project. Randy Jones seconded the motion.

Extension Approved 6-0 with Commissioner Ed Yanos recusing himself from the case.

Vernon Cherrett addressed the Commission in regards to the Henry County WECS Ordinance and the need for greater setbacks.

Dale Cole moved to adjourn, Dan Roach seconded. 7-0 in favor to adjourn.