



LAPORTE COUNTY PLAN COMMISSION

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ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES April 22nd, 2014

MEMBERS PRESENT: RITA BEATY KELLY HAROLD PARKER
 JIM PRESSEL JAY WRIGHT
 GLEN MINICH ANTHONY HENDRICKS
 WILLE MILSAP HAROLD PARKER

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Doug Biege, attorney, Darlene Pavey, Secretary.

PLEDGE OF ALLEGIANCE:

Anthony Hendricks asked for a Motion for approval of the Agenda

Willie Milsap said so moved. Jim Pressel seconded.

All approved. Motion carried 8-0.

Anthony Hendricks asked for a Motion for approval of the minutes.

Rita Beaty Kelly made a Motion for approval of the minutes. Jim Pressel seconded.

All approved. Motion carried 8-0.

- a) **Bane-Welker Equipment, LLC (buyers) and Harold E. and Janice J. Heavilin, (owners)**, by attorney Christopher D. Shelmon, to change zoning from A to B2, which would allow use as a farm implement dealer by rights. The Real Estate has been an operating farm implement dealer for over fifty years. Petitioner now desires to rezone the property to a similar zone that allows a farm implement dealer by right to restore the Petitioner's ability to grow and expand its business and buildings on the Real Estate, which is currently prohibited in the Real Estate's non-conforming stated. This property is located at 18800 S. Highway 421, La Crosse, IN, Dewey Twp., zoned A.

Christopher Shelmon of Gutwein Law and he's here tonight representing petitioner, Bane-Welker Equipment, LLC and Janice & Harold Heavilin. Attorney Shelmon said with him this evening is Philip Bane and Rick Isenhower of Bane Equipment.

Attorney Shelmon said that the petitioners own this property on US 421 that was formerly the Martin & Schoppel Dealership. It has been operated as a farm equipment dealership for over thirty years, and in fact Janice & Harold built the building in 1980 and Martin & Schoppel Dealership had existed many years before that.

Attorney Shelmon said that originally the property was zoned Industrial Reserved and Industrial Reserved allowed for the use of a farm implement dealership by right. In 2010 and 2011, the La Porte County Commissioners revised the zoning maps and the zoning ordinances and changed and got rid of the Industrial Reserved District and changed the property from an Industrial Reserve zoned property to an agricultural property, however in doing that, they changed the majority of what was once the IR zone into a B2 business district, however they did not go as far north as they were. Attorney Shelmon said that the IR district went all the way up to W. 1850 South, however the B2 district stopped short of the Van Martin & Schoppel Dealership and the Brian Sheely Farm.

Attorney Shelmon said that today the farm exists as a non-conforming use. Attorney Shelmon said that a non-conforming use allows the operation of the farm implement dealership; however it doesn't allow the dealership to grow by right, so they're stuck in their existing floor plan without seeking a Special Exception.

Attorney Shelmon said that the petitioners would like the ability to grow as demand requires and that is in the La Crosse area. Attorney Shelmon said that the B2 zone would allow the farm implement dealership by right and would allow investment that Bane-Welker seeks to make on the property. Attorney Shelmon said that Bane-Welker has invested in several other properties along the north central and throughout Indiana.

Attorney Shelmon is pointing out the other investments on an easel that have included substantial investment, including building investments between five-hundred thousand upwards to one-million dollars. Bane-Welker intends to complete a similar investment in the La Crosse property as needed.

Attorney Shelmon said that along with the investment of time, money and energy will come jobs; Bane-Welker's average operational full scale equipment dealerships such as these have created between fifteen and twenty-five jobs. Attorney Shelmon said that as you can see the facilities are clean, up-dated and modern and they look forward to being a member of the La Crosse Community and doing the same.

Attorney Shelmon said that as you know, the Commission reviews zoning requests based on the criteria in ordinance 30 Section 7 and if you look at several factors. Attorney Shelmon said that some of the factors are the County and Building Development Plan, which being on a major (inaudible) and US 421 and near a B2 commercial zoning, the operation of a farm implement dealership fits into this agricultural business area.

Attorney Shelmon said that you also look at the current conditions to make sure they're compatible, and in fact here, being an operational farm implement dealer since 1980 for over forty years, it shows that the operation use and the business district which is just to the south is

compatible with that area of La Crosse. They also look to see if whether the use is reasonable. Attorney Shelmon said that when looking at this once again being operational and being there is clearly a reasonable use. Attorney Shelmon said that the only neighbors to the south is Mr. Sheely who has as operational farm which includes several grain bins, different storage facilities, including barns.

Attorney Shelmon said that in fact Mr. Sheely supports the former Martin & Schoppel and the current Bane-Welker Equipment and enjoys having neighbors who are dedicated to the La Crosse community and want to invest into the community.

Attorney Shelmon said that the Commission will also look for the property value and the re-zone would certainly have no negative effect of the property values of the area, and in fact would likely increase them being that they will have a substantial investment in property and it will allow for a nicer facility and increase property values.

Attorney Shelmon said that you will also look at responsible growth and giving that that area is a slight extension of the B2 area and that the facility was already operational and was the only operational business left out of the rezone to agricultural, which was once IR., it seems that it would be a reasonable use in the area and have reasonable growth.

Attorney Shelmon said once again, similarly the environmental conditions being operational would not change and it's clearly shown as incapability with the area.

Attorney Shelmon said that one important issue that has been brought up is the issue of "spot zoning". Attorney Shelmon said that the property was once zoned IR and they currently enjoy a non-conforming use. As a result, no special benefit will be deferred on the property because they're already allowed to operate the dealership. Attorney Shelmon said that the rezone will simply allow investment into the property and be able to expand as needed based on the increase and expansion to a major dealership, which would include the sale of new equipment in addition to the current used implement sale.

Attorney Shelmon said furthermore, the extension of the B2 zone while a substantial benefit on the community, which would outweigh any "spot zoning" negative and it would include employment to fifteen to twenty-five people and investments of substantial amounts of money.

Attorney Shelmon said that they believe that considering the history of the property, the use of the property, and the neighboring B2 zone, that a reason for this property to be rezoned would be beneficial to La Crosse Community and the petitioners alike.

Attorney Shelmon said that they thank you for your time and consideration and respectfully requests that you recommend approval of this petition to rezone the property to B2 and they welcome any questions.

Attorney Shelmon said that they would also like to have Mr. Philip Bane and Janice Heavilin speak on behalf of the rezoning request.

Anthony Hendricks asked if the Board had any questions.

Willie Milsap told attorney Shelmon that he mentioned three other properties and he wanted to know where they are located.

Mr. Isenhower said that one is in Crawfordsville on 231; one is right off of 65 and 24 and the (inaudible) and one property is off of 30 they call the Plymouth facility.

Mr. Isenhower said that they have nine facilities in total in Central Indiana and Western Indiana.

Mr. Bane said that his parents started the business in 1967 with one location in Montgomery County -- south of here. Mr. Bane said that they have expanded over the years as farmers got bigger and it required them to consolidate.

Mr. Bane said that this transaction between them and Martin & Schoppel is nothing more than consolidation. Mr. Bane said that they spent in excess of one point four million at Pendleton, Indiana on a similar upgrade --- actually a brand new facility and this one they intend to remodel and add about twelve thousand square feet to the existing shop.

Anthony Hendricks if any of the Board members if they have any questions.

Glen Minich asked if we talked about the exact acreage.

Attorney Shelmon said that he thinks that it is about seven acres.

Jim Pressel made a Motion to accept their proposal and recommend to the Commissioners that this be changed to B2 zoning.

Gene Matzat and Harold Parker seconded.

Glen Minich said that he doesn't think that there are any remonstrators here this evening.

Janice Heavilin said that it started in 1934 with LeRoy Mitchell and it's wonderful that we have a group of people who want to continue and support our farming organization in La Porte County and that's why we're requesting this change.

Anthony Hendricks said that they're in the process of revising, editing and updating our maps that were passed in 2011 and if you guys could send your opinion on the re-zoning that happened and that we would like to extend the IR back to B2 where it use to be. Anthony said that they would greatly appreciate that kind of input as we move forward in amending these maps.

Willie Milsap told attorney Shelmon that in his presentation he made a reference to "spot zoning". Willie asked attorney Biege if that is a true statement. Attorney Biege said that he doesn't think that is the case here. Attorney Biege said that we had a change in zoning on a pre-existing structure -- they can continue to operate as a matter of right -- they're grandfathered in

under the new code, but he thinks that we had some B2 adjacent to this area already so he doesn't think that it would fall under that classification.

Attorney Biege said that the "spot zoning" can be defined in different ways, but the main definition of "spot zoning" is when you change zoning particularly in an area that is inconsistent with the surrounding area.

Anthony Hendricks asked if there are any other questions from the Board.

Anthony Hendricks asked if there will be Findings of Fact forwarded from us one way or the other for approval.

Attorney Biege said that he already has a draft of Findings of Fact based depending upon what the Board decides and since this is a zoning change there will also be a certification to the County Commissioners. Attorney Biege said that he will be e-mailing those Findings to the President depending on what the Board decides.

Anthony Hendricks asked if there are any other questions from the Board.

All approved. Motion Carried 8-0.

Attorney Shelmon thanked the Board.

Anthony Hendricks asked for Old Business:

Attorney Biege said that he can give the Plan Commission an up-date. Attorney Biege said that they received the recommendations from the Planners from the County, City of LaPorte and City of Michigan City. Attorney Biege said that he's meeting with the Plan Commission Attorneys in the next few weeks and they're going to go over those recommendations. Attorney Biege said that he knows that Mitch has been working on digitalizing the zoning maps – and he thinks that they were done and he sent him a couple of drafts and they kind of tweaked and he's not sure if he's finished or not. Attorney Biege said that they're very close.

Attorney Biege said that he thinks that the committee is done with the recommendations and Mitch is just putting them in form for the Plan Commission.

Anthony Hendricks asked if there is any other Old Business to bring up today.

Willie Milsap asked Attorney Biege if he's going to up-date us on the status with the SOB.

Attorney Biege said that he has a draft -- he's waiting for the Commissioners to read all the material that he gave them. Attorney Biege said that he did make the amendments to the SOB and he thinks that everyone is on board with what those changes would be. Attorney Biege said since the constitutional law requires an evidentiary basis for the change, there has to be a secondary affect reasons why the change would take effect.

Attorney Biege said that he thinks at this stage we're ready for the County Commissioners to set it for a meeting when they've had an opportunity to review the assessments that he provided to them.

Anthony Hendricks asked if there is any New Business.

Anthony Hendricks asked if there is a Motion to Adjourn.

Rita Beaty Kelly made a Motion to Adjourn. Jim Pressel seconded.

All approved. Motion Carried 8-0.

There being no further business this evening, meeting adjourned at 6:30 p.m.



ANTHONY HENDRICKS, President



ANNEMARIE POLAN, Rec. Secretary