

MINUTES
BROWN COUNTY AREA PLAN COMMISSION
COUNTY OFFICE BUILDING
FEBRUARY 28, 2017
TUESDAY, 6:00 P.M.

ROLL CALL:

Dave Harden, President called the meeting to order at 6:00 p.m. Members present were Paul Navarro, Debbie Bartes, Carol Bowden, Dave Harden, Russ Herndon and Jane Gore. Also present were Christine Ritzmann, Director, Ora Roberts, Office Manager and David Schilling, Attorney. Absent was Alyssa Besser.

APPROVAL OF MINUTES:

Ms. Bartes moved to approve the January 24, 2017 meeting minutes. Ms. Bowden seconded the motion. A voice vote was taken. All were in favor.

OLD BUSINESS: There was no old business.

NEW BUSINESS:

1) 17-RZ-02 NEIL PERRY AND VALERIE EDWARDS/HYDRO HARVEST LLC PETITIONERS

The petitioners are requesting approval to rezone property from (R1) Primary Residential to (R2) Secondary Residential. The property is located at 6092 St. Rd. 135 N. in Jackson Township.

Ms. Ritzmann read the staff report. Ms. Gore asked how many green cards were received. Ms. Ritzmann commented 5 of 7.

Petitioner:

Neil Perry commented that he would appreciate the recommendation. Ms. Bowden asked if the petitioner would be tearing down the house. Mr. Perry responded that he would like to salvage the house and would like to use the garage as the retail stand.

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Mr. Harden opened the public hearing.

Those speaking in favor. There were no speakers.

Those speaking in opposition. There were no speakers.

Mr. Harden closed the public hearing and moved the meeting back to the Board.

Ms. Bowden moved to send a positive recommendation to the Brown County Commissioners. Mr. Navarro seconded the motion. A roll call vote was taken. The motion passed with a 6-0 vote.

Carol Bowden	yes	Jane Gore	yes
Debbie Bartes	yes	Paul Navarro	yes
Russ Herndon	yes	Dave Harden	yes

Ms. Ritzmann commented that this will be heard on the Brown County Commissioner's agenda March 1, 2017. Ms. Biddle asked if there was enough notice. Ms. Clifford explained the newspaper was notified 48 hours in advance so this is enough time.

Mr. Herndon commented that the septic need to be approved by the Brown County Health Department. Ms. Ritzmann explained that the septic issue will be addressed with the special exception application.

DISCUSSION ITEMS:

Ms. Ritzmann commented that she received a letter from Steve and Nancy Comiskey who are residents of Southridge Trail subdivision. The Comiskey's were trying to compel the APC to defend their covenants in court. However, there was a clause in the subdivision covenants for the majority owner to be able to vacate the covenants after 25 years. Ms. Ritzmann explained that the majority owner did vacate the covenants after 25 years. Mr. Schilling also explained that covenants are contractual

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issues and the APC has a long-standing policy of not getting involved with contracts between developers and property owners.

Mr. Harden asked if this is regarding Ms. Beck. Ms. Ritzmann commented that Ms. Beck was the majority owner. Mr. Harden commented that the covenants were approved with the clause so this should stand as is. Ms. Ritzmann is preparing a letter explaining the Plan Commission position.

ANNOUNCEMENTS AND INSPECTOR REPORTS:

Mr. Herndon asked if he could get a copy of the development permit for the flood hazard area. Ms. Ritzmann commented that they are available in the office.

ADJOURNMENT:

Ms. Gore moved to adjourn the meeting. Mr. Navarro seconded the motion. The regular meeting was adjourned at 6:17 pm.

Work Session on the Zoning Ordinance revision which immediately followed the regular meeting of the APC.

Ms. Bowden commented to Mr. Schilling that she is not clear on the sign ordinance issue. Mr. Schilling explained that if you have to read a sign to determine if a regulation applies then it is a content based regulation which the Supreme Court said can't be done.

Mr. Navarro asked if this is all about the avoidance of lawsuits. Mr. Schilling agreed. Ms. Bartes explained that she feels this is about more than the avoidance of lawsuits because the current sign regulations are not legal after this Supreme Court ruling. Mr. Schilling commented that it is really difficult to write effective sign regulations and stay in the constitutional bounds.

Mr. Schilling commented that time, place and manner regulations in the sign ordinance are ok. He also explained that when people sue they

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usually go to federal court and this can be very expensive. Mr. Herndon commented that people can say whatever they want on their sign as long as it is the right height and width. Mr. Navarro explained this is about content. Mr. Harden commented that this ruling does not say that we can't have signs just that we can't regulate them based on content.

Bob Kirlin is with Carpenter Hills O Brown and he commented that the problem they are having is with directional signs. He explained that out-of-town realtors are coming in and having more information on the signs than what the ordinance allows. He explained they want to keep this place beautiful and he is afraid that Nashville will be inundated with directional signs. Mr. Harden explained that they can still regulate the number of signs.

Mr. Kirlin asked Mr. Schilling what other counties are doing about directional signs. Mr. Schilling explained that they are coming to grips with this law and are focusing more on time, place and manner. Ms. Ritzmann asked Mr. Harden what the typical right of way is on State Road 46. Mr. Harden commented that the right of way on SR 46 is fifty feet from the centerline but varies.

Ms. Bowden asked if the Town of Nashville has stricter sign regulations. Ms. Ritzmann commented yes and explained that they will have to change also. Ms. Ritzmann asked if the signs can be restricted based on zoning districts. Mr. Schilling commented yes. Mr. Schilling commented that the document he sent the board is highlighted based on areas in the sign ordinance that are content based.

Mr. Schilling asked the Board to address the highlighted areas of the ordinance. He commented that they are basically the directional sign provisions, political and temporary signs. Mr. Navarro commented that in a way it is almost impossible to define the objective.

Sara Clifford asked if the current signs that are up will have to change to come into compliance. Mr. Schilling commented that if a sign is up and was lawful (when it was placed) then it doesn't need to be changed. Mr.

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Schilling explained that this change will mainly be able to allow people to put up signs they couldn't put up before.

Mr. Harden asked what exactly should the Board work on. Mr. Schilling explained that the simplest thing to do is make the ordinance comply with the Supreme Court decision by doing away with the content based provisions and to check the highlighted areas in the document he sent the Board members to come up with a solution.

Mr. Schilling commented that if you have to read the sign to see what it says then the sign is content based. Mr. ? suggested reading through the ordinance and see where the changes can be made. Ms. Bartes explained that lewd things cannot be on the sign. Mr. Schilling explained that obscenity will be kept off signs.

Mr. Schilling commented that business districts seem to have larger signs. Ms. Gore asked about McDonalds signs. Mr. Schilling replied that bigger companies will say they have to have larger signs or they won't come into a town.

Ms. Bartes asked if next month everyone can come back with a working list to propose, regarding temporary signs for the county. Mr. Harden commented that everyone re-write the yellow highlighted areas as they want them to read.

Mr. Navarro asked what the realistic consequences are of not rewriting the sign ordinance. Mr. Schilling responded by saying that someone could take us to court if the Board tries to enforce the ordinance as is. Mr. Schilling commented that the credibility of the ordinance may not mean much if not changed.

The work session ended at 7:20 pm.

Dave Harden, President

Ora Roberts, Secretary