

HIGHLAND PLAN COMMISSION

Minutes of the Meeting of
Wednesday, June 16, 2021

The Highland Plan Commission met in regular session on June 16, 2021 via a Zoom Meeting Format, Meeting ID 913 6715 8199 Password 789281. The Pledge of Allegiance was led by Commissioner Martini. The meeting opened at 7:00 P.M. led by Commissioner Martini.

ROLL CALL: Present on roll call: Commissioners Joseph Grzynski, Mario Martini, Hunter Balczo and James Kisse. Also present Ken Mika, Building Commissioner/Zoning Administrator, Attorney Scott Bilse filling in for Plan Commission Attorney John Reed and Town Engineer Derek Snyder. Absent Commissioner Turich. Commissioner Zemen & Kendra attended late in the meeting.

MINUTES: Are there any deletions, additions or corrections to the minutes of April 21, 2021 regular meeting? If none, they will stand approved as posted.

ANNOUNCEMENTS: The next study session will be held on July 7, 2021 at 6:30 P.M. The next business meeting will be held on July 21, 2021 at 7:00 P.M.

COMMUNICATION: None

New Business Docket 2021-01 Preliminary Hearing for WSU Properties, LLC, represented by Attorney Greg Bouwer for a proposed Retail Development at the location of 10404 Indianapolis Blvd. The petitioner has filed a petition before the Plan Commission for Development in a B-PUD Zone and Indianapolis Blvd. Zoning Overlay District Development Plan.

Attorney Bouwer was present on behalf of the petitioner, WSU Properties along with Attorney Jim Yannakopoulos, David Mangurten and Engineer Russ Posen. Mr. Yannakopoulos will be filling in for Attorney Bouwer who has another Public Hearing to attend before this meeting will adjourn. Attorney Bouwer states this is a Preliminary Hearing and they will be requesting a Public Hearing for the next Plan Commission Meeting slated for July 21, 2021. He says they have submitted their PUD documentation for review and comment. He further they can make any changes as required or needed before they submit any formal documents on July 7 at the study session along with full drawings.

Commissioner Martini open up the Public Hearing. A resident of Highland asked where the proposed retail development would be. The response was south Indianapolis Blvd just off of Main St near the Gordon Food Store. The spot is north of the Gordon Food store. Hearing no further questions or comments, the Public Hearing was closed.

Commissioner Grzynski asked the Town engineer, Mr. Snyder if the detention pond issue was resolved. Mr. Snyder replied a portion of the pond to the north will be filled in to widen the

road. Commissioner Grzymiski also inquired if the lighting plans had been reviewed. Mr. Snyder replied yes, they have been submitted. He said there is one light on the east edge of the parking lot directly in front of where the front door will be. He said a revision was made to be a dual head light on a single pole.

Commissioner Martini asked Mr. Mika if once the business is ready for signage, will the petitioner need to come in front of the Board of Zoning Appeals. Mr. Mika replied no, as this is a Planned Unit Development area and the signage as part of the petitioners PUD Plan will be approved by the Plan Commission.

Commissioner Kisse asked if all items that needed to be updated have been updated yet. Russ Posen the petitioners engineer, replied he and Mr. Snyder have been working together to get those plans updated and they are in good standing at this point. Mr. Snyder agreed with Mr. Posen's position.

Commissioner Grzymiski motioned to grant the Public Hearing. Commissioner Kisse seconded and it passed with a unanimous vote of 4 -0.

Attorney Wieser was present on behalf of the petitioner. He said they received previous Primary Plat approval and are seeking Secondary Plat approval. He states there were a few minor errors on the plat that have corrected and they re-submitted the plat. He said the original copy is with Mr. Mika and he will be bringing two additional copies to him. He said they are simply asking for Secondary Plat approval and approval of the Mylar that records the (2) Lot Subdivision.

Commissioner Martini opened the Public Meeting and asked if someone would like to comment, to please give their name and address. Councilman Sheeman spoke to say that a name is only required now due to privacy issues. Hearing no remonstrances the Public Hearing was closed.

Mr. Mika stated that this is just an administrative act. He furthered he and Mr. Snyder, the Plan Commission Engineer, reviewed the Mylar and they are consistent with the Preliminary/Primary approval of the plat back in January or February of 2021.

Commissioner Grzymiski motioned to approve the Secondary Plat Approval for the (2) Lot Subdivision for the proposed Senior Living Facility between Cline Ave and Kleinman Rd. Commissioner Kisse seconded. A roll call vote was taken with a vote of 3-1. Three in favor and one abstention. Commissioner Balczo abstained.

Attorney Wieser stated that if there were not (4) votes in favor that the vote is no action, as it requires the majority of the Plan Commission to approve it. Attorney Wieser stated he recognizes a member's privilege to abstain, however he thinks there ought to be a reason for the abstention and he inquired as to why a Plan Commission member would abstain on a purely administrative act.

Commissioner Balczo responded the reason he abstained was due to the fact he was not present or on the Plan Commission during the time of these discussions and did not fully immerse himself in the discussions, so he feels he could not cast a vote in good faith with something he

did not make himself abreast of.

Attorney Wieser replied he respected that, however he reiterated that to follow Mr. Mika's direction, that this is an administrative act, so the act that Commissioner Balczo is taking it is separate and distinct from public comment or hearing or anything regarding the preliminary, it is simply allowing Attorney Wieser and the petitioner to record a Mylar. Commissioner Balczo replied he appreciated Attorney Wieser's stance. Commissioner Balczo stated he had planned on abstaining when he read his notes and assumed there would be more Commissioners at the meeting and he would be the only one abstaining. He reiterated his views of not being present at prior meetings and did not feel in good faith he could vote as it was before his time.

Commissioner Martini asked Mr. Mika to comment. Mr. Mika replied Attorney Wieser was correct regarding the vote and Mr. Mika did ask if Attorney Bilse was still present, which he replied he was. Mr. Mika said there were other Plan Commission members who are not present at this meeting and we were not advised ahead of time that they would not be attending, so this definitely puts us in a predicament. Mr. Mika suggested they could attempt to contact one of the members if a short recess was taken for one of them to join the zoom meeting.

Commissioner Martini recommend taking a recess and asked how long of a recess it should be. There was a conversation with the Plan Commission members who were present and it was decided up to a ten-minute recess would be taken to try and reach some of the other Plan Commission members.

Mr. Mika asked the Plan Commission attorney if he felt there would be a problem with this action. He responded he did not see any problem with that and they should feel free to do so.

Mr. Mika then asked Commissioner Martini to ask for a recess starting at 7:20 and then they would come back at 7:30. Commissioner Martini replied he has 7:19 on his phone and they would ask for the recess of 10 minutes.

Councilman Sheeman stated he was not sure if this action could transpire. He said the vote was cast and should cast the vote as recorded. He said he doesn't believe it is legal regarding having the recess. He would defer to the Clerk Treasurer Michael Griffin, but he believes if you are going to recess a meeting you are gone. You can't just do it for ten minutes. He again said he doesn't believe the recess is legal. Attorney Scott Bilse stated he is not aware of any statutory basis to find it improper as Mr. Mika did state earlier that this is just an administrative act and that on this recommendation by Mr. Mika ordinarily would suffice for that purpose again just as Attorney Wieser had indicated. Mr. Sheeman said the vote was already taken. He felt it would be different if before the vote, someone had joined the meeting, but the vote was taken. Attorney Bilse said he was not aware of any provision that would prohibit taking more time to try and correct this issue. Mr. Bilse said it was just like someone joining the meeting late, which can happen.

Mr. Mika attempted to reach out to the Plan Commission members who were not present at the meeting. He contacted Commissioner Zemen and was hoping to get Mr. Zemen on the Zoom meeting.

Councilman Sheeman reached out to Clerk Treasurer Michael Griffin on his phone to ask Mr. Griffin if the recess was legal. Clerk Treasurer Griffin replied yes, that it is legal with an explanation that wasn't audible to the people attending the meeting at this juncture of the meeting.

At this point Commissioner Zemen became present on the Zoom meeting. Council Sheeman told the attendees of the meeting that the recess was legal. It could be done as an adjournment, the meeting could reconvene, and if majority allows, a re-vote can be taken.

Commissioner Martini asked if Commissioner Zemen was present. Mr. Mika replied yes and if he wanted, Commissioner Martini could proceed. Mr. Mika suggested re-adjourning the meeting at this point, which was the time Mr. Mika had was 7:25, and then ask the Plan Commission to vote whether they want to bring back the topic and then re-vote.

Commissioner Martini called the meeting back to order at 7:25. The adjournment per Commissioner Martini was five minutes. He furthered he would like to make a recommendation to make a motion to the Commissioners to schedule a re-vote on the motion that was made by Commissioner Grzymski. He then asked for a motion to have a re-vote now that Commissioner Zemen was present.

Mr. Mika asked Commissioner Martini to confirm with the Plan Commission attorney the process in which Commissioner Martini wanted to proceed to make sure they were going forward in the right manner. Councilman Sheeman relayed that Clerk Treasurer Griffin said all Commissioner Martini would have to say is, can I ask for this without objection. If there is no objection, then they can proceed. Attorney Bilse said this is the process to move forward.

Commissioner Martini then said they are moving forward without objections. He asked for a motion from the Commissioners on scheduling a re-vote on the motion that was made by Commissioner Grzymski.

Commissioner Grzymski made a motion on the re-vote for approval of Secondary Plat Approval for a (2) Lot Subdivision for the proposed Senior Living Facility between Cline Ave & Kleinman Rd. Commissioner Kisse seconded.

Commissioner Martini asked if they were ready to proceed with the motion to re-vote. There was a roll call vote of 4 -1 with an abstention from Commissioner Balczo.

Next instruction from Attorney Bilse was to go ahead and vote to approve the Secondary Plat Approval.

Commissioner Grzymski motioned to approve the Secondary Plat Approval for the (2) Lot Subdivision for the proposed Senior Living Facility between Cline Ave and Kleinman Rd. Commissioner Kisse seconded. A roll call vote was taken with a roll call vote of 5 - 1. Five in favor and one abstention. Commissioners Grzymski, Martini, Zemen, Kendra & Kisse voted in favor. Commissioner Balczo abstained.

Commissioner Martini asked if anyone had any comment. Councilman Sheeman said that Clerk Treasurer Griffin relayed the Plan Commission is not bound by Roberts Rules of Order. Councilman Sheeman also said Clerk Treasurer Griffin suggested to check the bylaws to make sure all of the proceedings were legal.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: There being no further business to come before the Board, Commissioner Grzymiski moved to adjourn. Meeting adjourned at 7:30 P.M.