

Town of Griffith
Plan Commission
May 15, 2023

The May 15, 2023 Plan Commission meeting was called to order at 7:05 p.m. by Chairman; Larry Ballah with members Rob Bubala, Jim Marker, Rick Ryfa, and Larry Stassin. Also present was Plan Commission Engineer Jacob Ballah, Attorney; Bob Schwerd, and Building Commissioner; Steve McDermott. Absent was member Dave Maglish.

The minutes from the April 17, 2023 meeting were approved as written.

OLD BUSINESS

Item #1 Indi Homes 200 LLC: 1001 E 40th Pl. Rezone property from R2 to R3 to build townhomes: continued.

Mr. Patinos appeared before the Commission. Mr. Ballah stated the town has prepared a Memorandum of Understanding outlining the town ordinances and procedures. The Commission will vote on the zoning, the final decision will be made by the Town Council. ***Mr. Bubala made a motion*** granting a favorable recommendation to the Town Council to Indi Homes 200 LLC; 1001 E 40th Pl., to rezone the property from R2 to R3 subject to the developer's signed acceptance of the conditions of the MOU (Memorandum of Understanding). ***Motion was seconded by Mr. Stassin.*** Mr. Ryfa then read aloud the stipulations of the MOU.

- Proof of property ownership or a written statement from the owner that he is aware of what's happening.
- The property rezoned from R2 to R3 and will be developed as such.
- The minimum square footage per unit shall be 1,700 sq. ft. with an additional 500 sq. ft. 2 car garage.
- The units shall be sold to homeowners and not as rental units.
- All development will conform to the established Town ordinances.
- All developmental site/building plans and any variations to the ordinances will be submitted to all proper Town regulatory agencies including but not limited to: BZA, Plan Commission and Town Council for approval before any construction.

Mr. Patinos stated the square footage is larger than originally suggested on the Site Plan. He would like to discuss the items with his architect. Mr. Ryfa reminded Mr. Patinos the Plan Commission would be making a recommendation (favorable/unfavorable) to the Town Council. The recommendation would be based on the stipulations noted. If the items need to be amended, a subsequent meeting will be required. Mr. Patinos understood. ***All favored, motion carried.***

Item #2 Turnberry at Trail Creek: Turnberry Rd., & Glasgow Dr., Preliminary Site Plan Review.

The Commission decided to address Item #3 first. ***Mr. Bubala made a motion to continue*** Turnberry at Trail Creek; Turnberry Rd., & Glasgow Dr., Preliminary Site Plan Review to the June 19, 2023 meeting. ***Motion was seconded by Mr. Stassin. All favored, motion carried.***

Item #3 Turnberry at Trail Creek: Turnberry Rd., & Glasgow Dr., Public Hearing for a PUD to rezone the property from R1 to R3.

Mr. Chris Kovich appeared before the Commission. Mr. Ballah asked if proof of mailing and publication were in order. Mr. Schwerd stated all legal requirements have been satisfied. Mr. Kovich stated there are a total of 53 units, 13 lots are paired patio homes, the remaining are single family. The configuration remains the same. Mr. Ballah asked if the 8 units on the east side and the 5 units on the north side will be paired units. Mr. Kovich stated that is correct. Mr. Ballah then asked if anything else had changed. Mr. Kovich stated there are no other changes. The request for a PUD is to allow this phase to coincide with the previous phases. Mr. Ballah asked for a list of the items seeking modification from the town ordinances. Mr. Kovich stated the items are:

1. Change of 30' front yard setback to 25' front yard setback.
 2. Lots shall have minimum side yard setbacks of 8 feet instead of 9 feet.
 3. The right-of-way width shall be 50' and back of curb road width shall be 31 feet, instead of 66 feet and 34 feet respectively.
- Mr. Ryfa asked Mr. Kovich to answer some of the questions listed on Item #2 of the drawings received. Mr. Ryfa asked Mr. McDermott what the ordinance states the side yard setback should be. Mr. McDermott stated in an R1 & R2 zoning the setback is 7.5 feet. Mr. Ryfa asked about the rear yard. Mr. Kovich stated that is not an issue. Mr. Ryfa asked what lot coverage is required. Mr. Kovich stated he is not requesting a change to that; it is at 35% coverage. Mr. Ryfa stated his concerns about the smaller road width of 31 feet. Mr. Kovich stated it is smaller to stay consistent with the previous phase. Mr. Kovich stated he had a traffic study done and it was recommended the street width should remain consistent between the adjacent projects, widening the road would encourage the use of the roadway as a collector. No parking signage should be included. Mr. Ryfa asked for a copy of the traffic report. Mr. Ballah stated his concerns about emergency vehicle services access. Mr. Ryfa stated the "collector" issue is for the subdivision. People won't go from the north to the south to cut through the subdivision because it will not be a direct route, especially with Colfax and Fairbanks to the west. The future road at Avenue H will absorb a lot of the traffic. Mr. Ballah suggested holding a study session to further review the plans with other department heads. Mr. Ryfa asked if a traffic count study had been done. Mr. Kovich stated the study was based upon 53 additional units. Mr. Ryfa stated the 104 existing homes plus the 53 proposed homes is the potential usage of Glasgow. Mr. Ballah then opened the public hearing portion of the meeting. ***Mr. Gerald Purgert*** stated he disagrees with the proposed zoning change; it will change the look and feel of the community. He continued in stating the narrower side lots allow for congestion, narrow streets bring safety concerns, potential for swail/water problems. Mr. Purgert stated he purchased his home based on their slogan, "Turnberry has larger lots, larger homes, with basements", and that is not the case. ***Mr. Raymond White*** stated he is the current HOA President. Mr. White is against the request for a zoning change. On 2-16-2016 Mr. Kovich proposed "larger lots, larger homes, with basements" and that is not what is being proposed. A petition has been submitted from the neighborhood property owners against the proposal. Mr. White then spoke about an extension of Ave H and bringing in another entrance to the subdivision. Mr. Ryfa asked if documentation could be provided regarding the promised lot sizes. Mr. White stated he would look. ***Mr. David Patrone*** stated his concern with the additional homes and only having 1 ingress/egress. Mr. Ryfa stated engineering for the extension of Ave H is about 90% complete, the Town is in the process of acquiring the easements required, and the Town will be looking for additional funding sources. Mr. Ballah then closed the public hearing portion of the meeting. Mr. Ryfa asked how many single-family homes could fit at the eastern portion of the property if the 9 town homes were removed. Mr. Kovich stated he could possibly fit 10 single family homes, losing ½ a unit. ***Mr. Marker made a motion to continue*** Turnberry at Trail Creek;

Turnberry Rd., & Glasgow Dr., PUD to rezone the property from R1 to R3 to the June 19-2023 meeting. *Motion was seconded by Mr. Bubala. All favored, motion carried.*

Item #4 Gene Berryman: 1033 Reder Rd. Public Hearing to rezone the property from I1 to R1. Mr. Gene Berryman appeared before the Commission. Mr. Berryman stated the property has been zoned Industrial since he has lived there. Nearby neighbors have also gone through the rezoning process. There have been issues with neighbors across the street in the Industrial Park, there have been several police reports taken. Mr. Ballah stated if the rezone occurs, it will not affect the neighbors across the street. Mr. Berryman understood but feels that with residential zoning it will help with enforcement. Mr. Ballah asked if the incidents had been reported to the police. Mr. Berryman stated he calls the police approximately once a month and police reports have been turned in to the property owner. Mr. Ryfa asked if the zoning was I1 when purchased. Mr. Berryman stated he purchased it that way, 15 years ago. Mr. Ballah then opened the public hearing portion of the meeting. Mr. Schwerd stated all legal requirements for the public hearing have been satisfied. *Ms. Kathryn Proffitt* stated she is in favor of the request to rezone. She went through the same process recently and attested to the issues with the industrial neighbors. *Attorney Greg Bower* appeared on behalf of the surrounding property owners (Colfax North, 1045 Reder LLC, Octagon Corp., and 501-525 S Colfax LLC). Mr. Bower stated his clients purchased the property as an I1 zoning and have made significant investments in the properties. Mr. Bower was unaware of the unfortunate incidents the petitioner spoke of and believes it proves the uses are incompatible. Changing the zoning to residential would be considered a "spot zoning" change. Mr. Stassin asked how the rezoning would impact the surrounding owners. Mr. Bower stated the complaints are an issue, and an attractive nuisance (i.e., children shouldn't be playing around industrial uses). Industrial uses provide a tax incentive. Mr. Bower then presented the Commission with 3 written remonstrances (attached to minutes). Mr. Bower stated the factors to be considered before rezoning the property are, it must pay reasonable regard to the comprehensive plan, the current conditions and character of the uses in said district, the most desirable use for the district, and the conservation of property values. An assessor has been contracted to inquire how a rezone would impact the values for the petitioner and surrounding owners. The appraiser will be able provide a letter but was not able to provide documentation for this meeting. Mr. Berryman stated the house was built in 1860 before the surrounding properties were zoned industrial, and the easement has never been taken care of by the Austgen's. *Mr. Ray White* stated the home has been there a long time, prior to the industrial properties came in. Mr. Ryfa asked how long Mr. Berryman has owned the home. Mr. Berryman stated he has owned it for 15 years, the previous owner lived there 30+ years. Mr. Ryfa questioned when the property was zoned industrial. Mr. Berryman believed it happened in the 70's. Mr. Bower stated the Austgen's began investing in property about 50 years ago. Mr. Ryfa would like to investigate the issue. Mr. Ryfa also asked if the home is grandfathered in as a residential use due to it being occupied that way for 15+ years. Mr. Schwerd stated that was correct. Mr. Ballah asked how much industrial is on the north side of Reder. Mr. Bower stated immediately to the east there is a significant facility that is industrial use. Mr. Ballah then asked if a zoning change to residential would inhibit industrial use. Mr. Bower stated it would inhibit future development for the town. Mr. Ballah asked if there are plans to expand. Mr. Bower stated there is nothing specific. Mr. Ryfa stated the Commission doesn't know what the original zoning was or what plans for future development would have been. The item needs further investigation. *Mr. Ryfa made a motion to continue Gene Berryman, 1033 Reder Rd., Rezone the property from I1 to R1 for further discussion with town engineers and legal team. Motion was seconded by Mr. Marker. All favored, motion carried.*

Item #5 Menards: 430 W Ridge Rd. Site Plan Review for retail store. Petitioner has requested a continuance to the June 19, 2023 meeting.

Mr. Bubala made a motion continuing Menards; 430 W Ridge Rd., Site Plan Review to the June 19, 2023 meeting. Motion was seconded by Mr. Stassin. All favored, motion carried.

Item #6 Town of Griffith: 349 N Indiana St.. Final Site Plan Review for Tot Park.

Mr. Stassin made a motion granting Town of Griffith; 349 N Indiana St., Final Site Plan approval for Tot Park. Motion was seconded by Mr. Ryfa. All favored, motion carried.

NEW BUSINESS

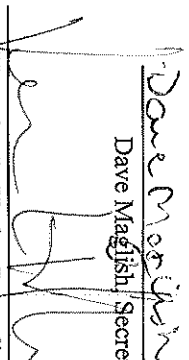
None.

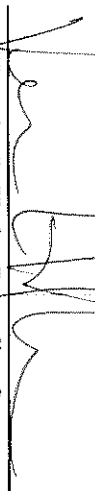
BILLS AND EXPENDITURES

Mr. Bubala made a motion to approve a claim for meeting minute preparation for the meeting held April 17, 2023, in the amount of \$65.00. Motion was seconded by Mr. Stassin. All favored, motion carried.

ADJOURNMENT

There being no further business to come before the Plan Commission, a motion was made and seconded to adjourn. The meeting was adjourned at 8:08 p.m.


Dave Maglish, Secretary


Veronica L. Horke, Recording Secretary

BEFORE THE GRIFFITH PLAN COMMISSION

IN RE: Eugene E. Berryman's Petition for Rezone from I1 to R1 ("Petition")

WRITTEN REMONSTRANCE

The undersigned, for its Written Remonstrance to the Petition, states as follows:

INTRODUCTION

Octogon Corp. ("Octogon") is the owner of a tract of property located south of the property referenced in the Petition (the "Berryman Property"). See Exhibit A. Octogon does not support the rezoning of the Berryman Property for the reasons set forth below.

LEGAL FRAMEWORK

I.C. 36-7-4-603 sets forth the applicable legal framework for the granting of a rezoning within the Town of Griffith, Indiana.

Section 603. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:

- (1) The comprehensive plan;
- (2) Current conditions and the character of current structures and uses in each district;
- (3) The most desirable use for which the land in each district is adapted;
- (4) The conservation of property values throughout the jurisdiction; and
- (5) Responsible development and growth.

The Plan Commission, in conducting the public hearing, should consider the foregoing elements of I.C. 36-7-4-603 to determine what type of recommendations it sends to the Town Council including an unfavorable recommendation or no recommendation at all.

DISCUSSION SECTION

The rezoning of the Berryman Property from industrial to residential is contrary to the comprehensive plan that plans this area as industrial, either immediately adjacent thereto as light industrial that is surrounded by heavy industrial.

The attached map demonstrates that the entire surrounding property is zoned I1 except for a parcel to the west that has inexplicably been spot rezoned R2. The Town erred when it spot zoned the adjacent parcel to R2, contrary to the current uses of the surrounding property. The entire area is industrial, surrounded by heavy industrial, and it contains industrial traffic which is not compatible with residential use. All of the other structures in the area are industrial based structures and the different uses adjacent to each other will only cause continual conflict in the area.

The most desirable use for land in the area is industrial based on its location in the Town and based on the existing uses in the area. The uses in this area are industrial and not residential, and the residential traffic and residential uses will not be compatible with the industrial uses.

The rezoning of this property to residential which would allow this property to remain residential permanently and that will devalue the surrounding industrial parcels. Having a residential parcel next to an industrial parcel will create ongoing conflicts in the area, and industrial uses will not want to be next to an incompatible residential use. This remonstrator needs additional time to obtain appraisals that will demonstrate that its property value will decrease based on residential being approved and authorized in the area.

Responsible development and growth would not allow residential zoning next to industrial. The Town already determined that this entire area should be industrial, and it has developed in that manner with industrial uses on surrounding parcels. The remonstrator relied on those representations from the Town and located its businesses there, has invested significant funds and employs numerous people from the area in its businesses. It would not have located here had it known the Town would attempt to rezone parcels from industrial to residential in this area that will unnecessarily generate conflict and perpetuate incompatible uses with possible accidents involving the residents with the businesses and industrial uses. Responsible development and growth necessitate that this entire area be industrial as the Town of Griffith planned, and it should not be spot zoned to residential. The adjacent parcel to the west should be rezoned to industrial by the Town to continue this area as a light industrial area.

CONCLUSION

As indicated, all the criteria set forth in I.C. 36-7-4-603 necessitate that the Petition be denied and the evidence and the law indicates the proposed rezoning should be given an unfavorable recommendation by the Griffith Plan Commission.

OCTOGON CORP.

By: [Signature]

Printed Name: W. O. N. O. L. A. S. T. O. N. E. D.

Title: President

BEFORE THE GRIFFITH PLAN COMMISSION

IN RE: Eugene E. Berryman's Petition for Rezone from I1 to R1 ("Petition")

WRITTEN REMONSTRANCE

The undersigned, for its Written Remonstrance to the Petition, states as follows:

INTRODUCTION

501-525 S Colfax LLC ("501-525 S Colfax") is the owner of two (2) tracts of property located east of the property referenced in the Petition (the "Berryman Property"). See Exhibit A. 501-525 S Colfax does not support the rezoning of the Berryman Property for the reasons set forth below.

LEGAL FRAMEWORK

I.C. 36-7-4-603 sets forth the applicable legal framework for the granting of a rezoning within the Town of Griffith, Indiana.

Section 603. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:

- (1) The comprehensive plan;
- (2) Current conditions and the character of current structures and uses in each district;
- (3) The most desirable use for which the land in each district is adapted;
- (4) The conservation of property values throughout the jurisdiction; and
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The Plan Commission, in conducting the public hearing, should consider the foregoing elements of I.C. 36-7-4-603 to determine what type of recommendations it sends to the Town Council including an unfavorable recommendation or no recommendation at all.

DISCUSSION SECTION

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The attached map demonstrates that the entire surrounding property is zoned I1 except for a parcel to the west that has inexplicably been spot rezoned R2. The Town erred when it spot zoned the adjacent parcel to R2, contrary to the current uses of the surrounding property. The entire area is industrial, surrounded by heavy industrial, and it contains industrial traffic which is not compatible with residential use. All of the other structures in the area are industrial based structures and the different uses adjacent to each other will only cause continual conflict in the area.

The most desirable use for land in the area is industrial based on its location in the Town and based on the existing uses in the area. The uses in this area are industrial and not residential, and the residential traffic and residential uses will not be compatible with the industrial uses.

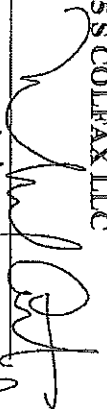
The rezoning of this property to residential which would allow this property to remain residential permanently and that will devalue the surrounding industrial parcels. Having a residential parcel next to an industrial parcel will create ongoing conflicts in the area, and industrial uses will not want to be next to an incompatible residential use. This remonstrator needs additional time to obtain appraisals that will demonstrate that its property value will decrease based on residential being approved and authorized in the area.

Responsible development and growth would not allow residential zoning next to industrial. The Town already determined that this entire area should be industrial, and it has developed in that manner with industrial uses on surrounding parcels. The remonstrator relied on those representations from the Town and located its businesses there, has invested significant funds and employs numerous people from the area in its businesses. It would not have located here had it known the Town would attempt to rezone parcels from industrial to residential in this area that will unnecessarily generate conflict and perpetuate incompatible uses with possible accidents involving the residents with the businesses and industrial uses. Responsible development and growth necessitate that this entire area be industrial as the Town of Griffith planned, and it should not be spot zoned to residential. The adjacent parcel to the west should be rezoned to industrial by the Town to continue this area as a light industrial area.

CONCLUSION

As indicated, all the criteria set forth in I.C. 36-7-4-603 necessitate that the Petition be denied and the evidence and the law indicates the proposed rezoning should be given an unfavorable recommendation by the Griffith Plan Commission.

501-525 S COLFAX LLC

By: 

Printed Name: Michael Austzel

Title: Mayor

BEFORE THE GRIFFITH PLAN COMMISSION

IN RE: Eugene E. Berryman's Petition for Rezone from I1 to R1 ("Petition")

WRITTEN REMONSTRANCE

The undersigned, for its Written Remonstrance to the Petition, states as follows:

INTRODUCTION

Colfax North – 1045 Reder LLC ("Colfax North") is the owner of two (2) tracts of property that surround the property referenced in the Petition (the "Berryman Property"). See Exhibit A. Colfax North does not support the rezoning of the Berryman Property for the reasons set forth below.

LEGAL FRAMEWORK

I.C. 36-7-4-603 sets forth the applicable legal framework for the granting of a rezoning within the Town of Griffith, Indiana.

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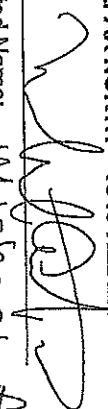
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CONCLUSION

As indicated, all the criteria set forth in I.C. 36-7-4-603 necessitate that the Petition be denied and the evidence and the law indicates the proposed rezoning should be given an unfavorable recommendation by the Griffith Plan Commission.

COLFAX NORTH - 1045 REDER LLC

By: 

Printed Name: Michael Austgen

Title: owner