

**Planning Commission
May 24, 2022, Meeting
City of Huber Heights**

- I. Chair Terry Walton called the meeting to order at approximately 6:00 p.m.
- II. Present at the meeting: Mr. Jeffries, Ms. Opp, Ms. Thomas, Ms. Vargo and Mr. Walton.

Members absent: None.

Staff Present: Aaron K. Sorrell, Interim City Planner, and Geri Hoskins, Planning & Zoning Administrative Secretary.

III. Opening Remarks by the Chairman and Commissioners

IV. Citizens Comments

None.

V. Swearing of Witnesses

Mr. Walton explained the proceedings of tonight's meeting and administered the sworn oath to all persons wishing to speak or give testimony regarding items on the agenda. All persons present responded in the affirmative.

VI. Pending Business

- 1. None

VII. New Business

- 1. **REZONING AND LOT SPLIT** - The applicant, **MICHAEL SKILWIES**, is requesting approval of a Replat and Rezoning from A (Agricultural) to PI (Planned Industrial). Property located at 9416 Taylorsville Road (Case RZ 22-17).

Mr. Sorrell stated that the applicant has been operating a truck and heavy equipment repair business at this location for many years. Based on complaints received in August 2021, Zoning staff-initiated enforcement action on the applicant's business based on the fact that non-farm related truck and heavy equipment repair is not permitted in the Agricultural District. In August 2021 the applicant requested a use variance for the diesel truck and equipment repair operations. The BZA unanimously denied the application at their October 6, 2021 meeting.

The applicant was provided with the lot split and rezoning application shortly after the BZA decision as an alternative path to allow the continued operation of the repair facility. On or about March 28, 2022 Zoning staff filed minor misdemeanor charges for the continued operation of repair facility and the applicant subsequently filed the application for a lot split and rezoning.

Applicable Subdivision and Zoning Regulations

The applicable subdivision regulations include: 1109 Subdivision Design Standards

The applicable zoning chapters include: 1171 General Provisions, 1177 Planned Industrial District.

Subdivision Standards Analysis:

The following is the analysis of the subdivision and zoning regulations as applied to the applicant's proposal to subdivide a five-acre parcel into two lots: Lot 1: A 1.30-acre lot zoned Agricultural; Lot 2: A 3.55-acre lot requesting to be zoned Planned Industrial.

Proposed Lot 1 Analysis:

Use: Conforming (residential uses are permitted in the Agricultural District)

Lot Size: 1.3 acres – Conforms to zoning regulations (min. 1 acre required)

Lot Frontage: 158.06 feet – Does not conform to zoning code regulations
(Zoning code requires 200 feet. (Section 1142.05))

Yards:

Front: Conforming (min 60 feet)

Side: Conforming (min 30 feet)

Rear: Conforming (min 50 feet)

Other Issues:

There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Proposed Lot 2 Analysis:

Use: Proposed use of truck / heavy equipment repair is permitted in the Planned Industrial District

Lot Size: 3.56 acres – Conforms to zoning regulations (No min. area required)

Lot Frontage: 41.43 feet – Conforms to zoning regulations (35 feet is min. required)

Yards:

Front: Conforming (min 50 feet)

Side: Conforming (min 25 feet)

Rear: Conforming (min 25 feet)

Other Issues:

There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Staff Analysis

The subdivision of the 5-acre parcel into two new lots will create one minor nonconformity, which is Lot 1, will have less frontage than required by the zoning code. The subdivision regulations do not prohibit flag lots and there are examples of rural non-conforming lots of similar type. That being said, it is poor planning practice to encourage the creation of non-conforming lots.

Staff recommends the record plan only be approved if Planning Commission recommends approval of the rezoning.

Zoning Standards Analysis:

This analysis is based on the rezoning application submitted on March 28, 2022. The zoning code assumes that rezonings to planned unit development are part of a redevelopment or new construction project. The applicant has not indicated they are proposing any improvements to the site, and has not submitted a formal basic development plan. Therefore, staff is assuming no improvements are planned for the property, and the record plan survey dated May 4, 2022 will serve as the basic development plan.

The proposed truck and heavy equipment repair is principally permitted within the Planned Industrial District.

As indicated by the record plan, the occupancy for the PI district is significantly less than 75 percent of the area. Additionally, the applicant has not indicated any additional improvements are intended for the site. Taylorsville Road is a major thoroughfare as established on the Official Thoroughfare Plan.

No additional landscaping or buffering is indicated on any plans submitted to date. However, with exception to the street tree requirement, no screening along the side yards is required.

The applicant has not proposed any off-street parking or loading area improvements. A large gravel parking area exists in front of the existing building where repairs are currently taking place. Staff does not feel additional parking is warranted and will distract from the rural nature of the neighborhood.

No new buildings are proposed. If the rezoning is approved, any new buildings proposed on this lot shall be subject to this provision.

If the rezoning is approved, the applicant will be required to move his repair operations wholly indoors. This requirement was brought to the attention of the applicant, and he indicated he understood the requirements and wished to proceed with the rezoning request.

While the applicant has agreed to these conditions, it is important to note that the site under discussion is not readily visible from the right-of-way, in fact it is nearly 400 feet from Taylorsville Road. Therefore, any violations of this condition will be almost impossible for code enforcement staff to easily recognize and thus enforcement of this condition will likely only be triggered by complaints made by adjacent property owners or residents

The applicant is seeking relief for the illegal use by requesting a rezoning to Planned Industrial after the BZA denied the use variance. The comprehensive plan indicates this area should be agricultural/low density residential. The proposed rezoning is not consistent with the comprehensive plan.

In his application, the applicant references the industrially zoned land within a ¼ to ½ mile of this site. It should be noted that the majority of that land is consistent with the comprehensive plan and has access to public water and sewer. Neither are applicable to the applicant's site.

This rezoning request ultimately arose due to complaints from neighboring property owners or residents regarding the operation of a truck / heavy equipment repair facility in their neighborhood. According to the minutes of the BZA hearing, complaints, centered on the noise of the diesel engines and traffic congestion due to vehicles moving on and off site. Additional concerns were raised about the potential contamination of drinking water wells due to fluid leaks or spills.

Noise, smoke and fumes are likely an occasional byproduct of heavy engine repair. If the planning commission is inclined to approve the rezoning, limiting the hours of operation to a traditional M-F, 8am – 6pm may reduce the impacts of this facility on the neighboring residents, especially in the evenings and weekends.

- (a) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

As indicated above, neighbors have expressed concerns about noise from the diesel engines and ground water pollution from this operation during the BZA hearing. All residents along this segment of Taylorsville Road get their drinking water from private wells, and this concern should not be overlooked.

STAFF RECOMMENDATION

It is the staff's opinion the rezoning to Planned Industrial does not meet the standards outlined in Section 1171.06. As outlined through the staff analysis above, the application does not meet the standards of Section 1171.06(a), (k), and (L). Therefore, staff recommends denial of the replat and rezoning from Agricultural to Planned Industrial.

If the Planning Commission determines the rezoning request is consistent with the standards outlined in Section 1171.06, staff recommends the following conditions:

- 1) The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
- 2) All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
- 3) No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;

- 4) Repaired vehicles shall be stored on site no longer than five consecutive days;
- 5) The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
- 6) Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;

Michael Skilwies and Attorney Greg Page spoke. A few neighbors spoke in opposition.

Discussion on inside storage, widen apron and driveway, current hours, Night lights, no complaints, visual truck traffic, EPA, concern about how long they've been in business, property value, safety, health, no other industrial plots, enforcement, and splitting lot what if sold.

Action

Ms. Thomas moved to approve the request by the applicant Michael Skilwies, for approval of a Rezoning from A (Agricultural) to PI (Planned Industrial) and a Lot Split. Property located at 9416 Taylorsville Road further identified as Parcel Number P70 03902 0018 of the Montgomery County Auditor's Map (Case RZ 22-17) in accordance with the recommendation of Staff's Memorandum dated May 24, 2022 and the Planning Commission Decision Record as amended attached thereto.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Ms. Vargo. NAYS: Mr. Jeffries, Ms. Opp, Ms. Thomas, and Mr. Walton. Motion to approve denied 4-1.

- 2. MAJOR CHANGE TO THE DETAILED DEVELOPMENT PLAN - The applicant, SKILKEN GOLD REAL ESTATE DEVELOPMENT, LLC, is requesting approval of a Major Change to the Detailed Development Plan for a proposed Convenient Store/Gas Station and Car Wash. Property located at Old Troy Pike and Taylorsville Road (Case MJC 22-21).**

Mr. Sorrell stated applicant wasn't ready but due to already being advertised, this was added to the agenda.

Action

Mr. Jeffries moved to table the request by the applicant Skilken Gold Real Estate Development, LLC, for approval of a Major Change to the Detailed Development Plan (Case MJC 22-21) until the next Planning Commission meeting of 6/14/2022.

Seconded by Ms. Thomas. Roll call showed: YEAS: Ms. Opp, Ms. Vargo, Ms. Thomas, Mr. Jeffries, and Mr. Walton. NAYS: None. Motion to table carried 5-0.

VIII. Additional Business

Informal review – Marion Meadows Residential

Matt Canterbury, from Homestead, talked about the redevelopment of this large area and how pieces intertwine to begin to implement the Brandt Pike redevelopment plan.

Comprehensive Plan Discussion – YARD Company hired to work through the new Comprehensive Plan. Timeline, ideas, people will get started soon.

IX. Approval of the Minutes

Without objection, the minutes of the May 10, 2022, Planning Commission meeting are approved.

X. Reports and Calendar Review

Final Plat Carriage Trails

Final Plat Callamere Farms

Minor Change signage at Kohl's

XI. Upcoming Meetings

June 14, 2022

June 28, 2022

XII. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at approximately 8:50 p.m.



Terry Walton, Chair



Geri Hoskins, Administrative Secretary



Date



Date