

Minutes - Goshen Board of Zoning Appeals
Tuesday, January 26, 2010, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Karen Fairfield, Ardean Friesen, Tom Holtzinger, Kelly Huffman and Don Riegsecker. Also present was City Planner Joe Hauflaire and Attorney James Kolbus.

II. 2010 Board of Zoning Appeals Appointments

- Tom Holtzinger – *appointed by the Mayor for a term of four (4) years*

III. Election of Officers for 2010

A motion was made and seconded, Huffman/Riegsecker, to elect Karen Fairfield as Secretary for 2010. The motion passed, 5-0.

A motion was made and seconded, Huffman/Riegsecker, to elect Tom Holtzinger as Vice President for 2010. The motion passed, 5-0.

A motion was made and seconded, Huffman/Riegsecker, to elect Ardean Friesen as President for 2010. The motion passed, 5-0.

IV. Approval of Minutes from 11/24/09: Mr. Holtzinger noted that the word "tinks" should instead read "thinks" on Page 2, Paragraph 5. A motion was made and seconded, Huffman/Fairfield, to approve the minutes with the listed change. The motion passed, 5-0.

V. The Zoning/Subdivision Ordinances were unanimously filed into Record: Huffman/Holtzinger, 5-0.

VI. Postponements/Withdrawals: None.

VII. Variances

10-01UV – Gary Askren requests a use variance to allow a non-permanent food vendor to operate in the Commercial B-2 district adjacent to 101 S. Main Street.

Mr. Hauflaire explained that the applicant is requesting a use variance as the proposed use is considered a conditional use in the Commercial B-3 and B-4 districts only and the proposed location is in the Commercial B-2 district. He advised that the applicant is planning to operate within the public right-of-way and was granted Board of Public Works & Safety approval on November 23, 2009 for a six (6) month period. He stated that the petitioner has done everything that has been asked of him and he noted the memo from First Source Bank, the adjacent property owner, stating that they have no objections to the request. He clarified that the approval would be for a food vendor only and that the conditions are much like what were granted for the hot dog vendor previously. He reviewed the eleven (11) conditions listed in the Staff report. He did note that they received a call from the main branch of the bank expressing concern over the cleanliness of the operation and that Condition #8 was added because of their concern.

Mr. Hauflaire also informed the Board that the City Council is currently working on an ordinance to establish some administrative authority over these types of cases. Attorney Kolbus stated that the administrative authority would be more like licensing and that they would still have to comply with the BZA conditions if the Council ordinance goes in to effect.

Mr. Hauflaire recommended approval of the request.

Petitioner Presentation

Gary Askren, 418 Rosewood Drive, Apt. 1, Mishawaka, spoke as the petitioner. He showed the Board a copy of his approval from the Health Department to operate the popcorn stand. He also asked for clarification as to where the six (6) foot of sidewalk would be required.

Mr. Hauflaire stated that it wouldn't matter if the six (6) foot is toward the building or the curb but that it has to be present on one side.

Audience Comments

There was no one to speak to the petition.

Public hearing was closed.

Staff Report & Discussion

Mr. Hauflaire noted that Condition #1 talks only about food vending and that the Board can choose to make it more specific to state "popcorn" if they so choose.

Action

A motion was made and seconded, Huffman/Holtzinger, to grant petition 10-01UV with the eleven (11) conditions listed in the Staff Report with the amendment to Condition #1 to state "for popcorn and drink vending only".

Mr. Riegsecker asked if the Council is looking at anything else or just licensing. Mr. Hauflaire stated that it is just for licensing at this point and that it will not be discretionary and just administrative from what he understands.

Ms. Huffman noted that this approval would only be for one (1) year at this point.

The motion passed, 5-0.

10-02UV – Douglas Dispennett requests a use variance to permit two residential units where one unit is permitted in the Commercial B-1 district. One residential unit and a commercial unit will be on the first floor with a second residential unit on second floor. The applicant is requesting flexibility to utilize the first floor residential unit as either commercial or residential as needed. The subject property is generally located at 414 W. Pike Street and zoned Commercial B-1.

Mr. Hauflaire noted that there is a home at 414 W. Pike Street that currently has three (3) units. At one time, he advised that the main floor had two (2) commercial units and one (1) residential unit upstairs. He stated that the front lower unit was recently converted to a residential use but that the Commercial B-1 district permits only one (1) residential unit in conjunction with a commercial use. He explained that the applicant is interested in having the second dwelling unit and also having the flexibility to shift between commercial and residential use as the market fits. Mr. Hauflaire advised that he has no strong objections to that request. He pointed out the third point of the Staff Report stating that this decision is not making any determination as to the lawfulness of the property. He advised that, with the listed conditions, he would recommend approval of the request.

Petitioner Presentation

Doug Dispennett, 215 Pleasant Avenue, stated that he has reviewed the Staff Report and had no further questions or additions.

Mr. Riegsecker asked for clarification on the parking for the property. Mr. Dispennett advised that there is parking on both the east and south side of the property.

Audience Comments

There was no one to speak to the petition.

Public hearing was closed.

Staff Report & Discussion

There was no discussion amongst the Board.

Action

A motion was made and seconded, Riegsecker/Fairfield, to grant petition 10-02UV with the conditions listed in the Staff Report. The motion passed, 5-0.

10-01DV – Steven & Bonnie Blosser request a developmental variance to allow for the replacing of a rear porch to within 3' of rear lot line where 25' is required. The subject property is generally located at 708 E. Reynolds Street and zoned Residential R-1.

Mr. Hauflaire explained that some construction has already begun on the porch and noted the photo in the Staff Report. He advised that there were previously two (2) small porches with one over each of the rear doors and that both were deteriorated and unsafe. He stated that the property owner chose to put up a new structure that does project further toward the property line. He noted that the required rear setback is twenty-five (25) feet but that the home for this property does not even meet the setback. As such, any improvements for this property will require Board approval. He pointed out that the lot is fairly small, as well. He recommended that the Board grant the variance as this is in the rear of the property and there is a fence shielding it from the neighbors. He noted that condition requiring that the structure remain unenclosed.

Petitioner Presentation

Steven Blosser, 19330 CR 40, Goshen, advised that he is familiar with the Staff recommendations. He explained that the previous porches extended to the edge of the concrete where the new porch is being constructed.

Mr. Riegsecker asked if they are done with the porch. Mr. Blosser stated that they have decked it but still need to add the siding and to finish it.

Audience Comments

There was no one to speak to the petition.

Public hearing was closed.

Staff Report & Discussion

Mr. Friesen noted an e-mail from Dawn Leatherman, an adjacent neighbor, stating that she has no objection to the variance request as long as it remains unenclosed.

Action

A motion was made and seconded, Huffman/Holtzinger, to grant petition 10-01DV with the conditions listed in the Staff Report and the additional stipulation that it remain unenclosed as shown on the photo dated December 2009 and included in the Staff Report. The motion passed, 5-0.

10-03UV – Soil Solutions Co. and City of Goshen request a use variance to amend a previous variance granted in 2001. The request is to expand the list of material to be recycled to include food waste in addition to recycled wood products. Further, to expand the list of items for sales including but not limited to landscaping materials such as stone and fabric. Other amendments include expanding the hours of grinding and the charge for service. This may not be a complete list of amendments but the list of known amendments at this time. Amendments may be added, modified or eliminated at the public hearing. The subject property is generally located at 20100 CR 19 and zoned Residential R-1.

Mr. Hauflaire stated that this request is an amendment to an April 2004 decision by the Board of Zoning Appeals. At that time, he explained that the variance allowed for the recycling of wood products and the sale of the byproducts (i.e. mulch, compost and animal bedding). He stated that they are now being asked to expand upon that and to add to that to include the recycling of commercial food waste and the sale of additional products (i.e. stones, landscape fabric and similar items). He advised that he does not know if they're asking to sell items such as trees and shrubs and noted that this needs to be clarified by the petitioner. He further explained that this type of use is managed by IDEM and, as such, would be required to follow their rules and regulations. He pointed out the changes being suggested to the 2004 conditions and the new conditions being added. He reviewed the nine (9) conditions for the Board and the audience (as shown below).

1. The variance shall for a period of one year from the approval date. After that time period, a new public hearing shall be held before the BZA and a decision shall be made at that time if the use variance continues.
2. The variance currently in effect continues (recycling wood waste products to include trees, branches, leaves, grass, and brush) and is to be expanded to include recycling of commercial food waste.
3. The by-product may be sold on-site and includes mulch, compost, or animal bedding. In addition to the by-product being sold on-site stone, and landscape fabric, and similar items may also be sold. This does not include the sale of nursery stock.
4. The sale of landscape material other than mulch, compost and animal bedding shall not be more than 40% of the gross revenue.
5. The number of food waste trucks is limited to a maximum of 25 per week. Each truck may bring a roll-off container no greater in volume than 20 cubic yards.
6. Grinding hours shall be from Monday through Friday from 8:00 am to 5:00 pm not more than two days per week.
7. Hours of business shall be as follows:
 - i. Summer Hours: March through October: 7:00 A.M. to 7:00 P. M.
 - ii. Winter Hours: November through February: 7:00 A. M. to 6:00 P.M.
8. Violation of any State of Indiana permit application regulation shall immediately revoke BZA approval.
9. A complaint related to odor, noise, vermin infestation, or other nuisance related to the granting of the variance may be brought at any time to the Zoning Administrator. Any complaint is substantiated by Goshen Zoning Administrator may be brought before the Board of Zoning Appeals at a public hearing to show cause why the variance shall not be revoked.

Ms. Fairfield advised that she tried to look at the IDEM reports and regulations but that it was sixty-six (66) pages long and hard to understand.

Petitioner Presentation

Dan Plant, Soil Solutions at 20100 CR 19, spoke on behalf of the petition. He advised that their goal is to get the facility cleaned up and running well and that they want to be able to use the whole facility and find ways to lower the cost to the City. He advised that they will be following IDEM's regulations regarding the food waste. He stated that they plan to mix it with the existing materials and will be treating it as a biosolid. He confirmed that they're asking for no more than twenty-five (25) loads per week and that it will likely be less than that to start. He further explained that they want to make this a model facility and that they will be working with both Wal-Mart and the City.

Mr. Plant stated that, for now, only Wal-Mart will be trucking to the property. He advised that it will come in a roll-off container that will be covered and contained. He stated that the food will act as the nitrogen source for the composting mixture and that the process will take approximately four (4) to six (6) weeks to complete. He advised that it will be placed into a curing pile and that the temperatures will be regulated to break down all the volatile organics in the mixtures. By doing so, he advised that it reduces the risk of vectors such as flies and rats.

Mr. Holtzinger asked if this process takes place at surface level and Mr. Plant confirmed that it does.

Mr. Holtzinger further asked how they control rodents. Mr. Plant advised that temperature is the key and that most of the food waste will be water. He stated that there will be no meat involved and that the food waste will consist of produce and bakery products.

Mr. Holtzinger asked how they will ensure that there is no meat in the mixture. Mr. Plant stated that it will be part of their contract with Wal-Mart. He further stated that Wal-Mart has assured them that they will only provide the proper food waste and that they have done this across the country.

Ms. Fairfield advised that, as a gardener, she is familiar with composting and asked what their formula will be for their process. Mr. Plant advised that it is hard to say the exact formula.

Ms. Fairfield asked if there will be paper in the mixture and how they will deal with oils. Mr. Plant stated that neither paper nor oily substances are part of the contract with Wal-Mart and that they will deal with those issues if they arise. He noted that oils can be composting and that they are and will continue to work with an environmental scientist at

Mr. Hauflaire asked for clarification on what their contract will allow. Mr. Plant stated that, at least for the first year, it will allow for only produce and bakery products.

Mr. Riegsecker asked how long the dumpsters sit behind a Wal-Mart store before being delivered. Mr. Plant stated that they will be delivering at least once a week.

Mr. Riegsecker asked for confirmation that nothing will be left or buried on the site in the end. Mr. Plant confirmed that statement noting that approximately 70,000 tons of compost was sold last year. He advised that they sell to a large number of farmers and also bag some of the compost.

Ms. Fairfield asked if there are any similar facilities in this area. Mr. Plant stated that there is one other in Indiana but that there are several across the country. He further explained that Indiana currently has no food waste guidelines and that this will be handles as a biowaste product, which has the most stringent regulations at this time.

Ms. Huffman asked if they are requesting permission to sell nursery stock. Mr. Plant stated that they are not and that they're not even really in the market for the other items but want to provide them to save people a stop.

Mr. Riegsecker asked where the operations currently take place on the property. Mr. Plant pointed out the area on a map for the Board members.

Ms. Huffman asked how many notices were sent and Mr. Hauflaire stated that thirty-two (32) were sent out to neighboring property owners.

Dustin Sailor, Goshen Engineering at 204 E. Jefferson Street, stated that he is responsible for water, sewer and storm water issues for the City of Goshen. He also advised that he has been overseeing the environmental center for the past two and half (2 1/2) years. He explained that this site was previously heavily used by the county and that they participated in the cost. However, he noted that the previous company did not work out and that they released themselves from their contract with the city as the financial environmental changed. He stated that the property was left in poor condition and that City staff spent a lot of time cleaning it up. At that time, he explained that the City sought other proposals for a company to operate the site. He advised that they currently pay \$125,000 per year to have Soil Solutions run the site and help to continue to clean it up. He stated that it will be a much better site in the long run but that it comes with a cost to the City. He pointed out that added revenue for their company will help to offset the City's cost and that the City is involved in this process with them. He explained that the first step is to obtain the zoning approval and to then go to IDEM for the necessary permits. If granted that approval, the City will then negotiate a revised contract with Soil Solutions. He pointed out that the City has a lot of control over this property and that this approval can be made null and void if it's not working. He explained that this site is important for the City because they either operate the environmental center or pay tipping fees to dispose of all of the City materials elsewhere.

Mr. Riegsecker asked for clarification on the cost of operations. Mr. Sailor advised that it is \$125,000 per year and that this contract began in July of last year.

Mr. Sailor also informed the Board that they are working with an environmental scientist, who happens to be a Goshen resident, on this site and that he has not indicated any concerns over the food waste issue. He explained that this gentleman conducts bi-weekly visits to the site and reports back to the City on his findings.

Mr. Riegsecker asked what the biggest concern would be and Mr. Sailor advised that they assume that it will be odor but that they do not have a lot of experience. He stated that this will have to be a trial run and that this portion of the contract will be voided if it doesn't work.

Audience Comments

Dorris Heflin, 20085 CR 19, spoke as a neighboring property owner. He advised that he lives directly across from the gate and is concerned about the smell. He stated that they already have a lot of problems with the smell and dust. He advised that this is not the right zoning for this type of operation and also noted that this section of CR 19 is already a

busy stretch of road. He stated that he doesn't have a problem with the existing operations but doesn't want the food waste.

Mr. Holtzinger asked if the dust has improved with the new operators. Mr. Heflin advised that it has helped but that the driveway is always dusty. He also noted that they turned leaves yesterday and that it smelled bad.

Fred Buttell, 825 W. Wilden Avenue, spoke in opposition to the request. He stated that he doesn't want to be a guinea pig and doesn't feel that we should be experimenting with an untried process. He provided the Board with a petition with over eighty (80) signatures in opposition to this request. He stated that they have obtained more signatures but do not have the additional petitions to provide today. He explained that, when this was originally set up, Goshen City residents were to be able to dump at this site without any fees. He further stated that there is now an out-of-town company that wants to come in to make an enterprise out of it. He stated that this waste won't just be bakery goods but that there will be all types of pathogens, bacteria and odors, especially if it sits for a week at a time. He pointed out that this site lacks water and that there is no water that runs to the site. He noted that machines cannot be cleaned and that the operators can't be clean. He stated that there are several hundred people living in the immediate vicinity of this site and that there is already a landfill in Elkhart that takes everything. He pointed out the fact that they even capture the methane gas that is generated and reuse it, allowing them to save hundreds of thousands of dollars. He reiterated that Goshen does not need a landfill and that this site will become one if this is allowed. He noted that the previous site operator had a hard time getting rid of the compost and that there were always huge amounts on site. He stated that approval of this request will impact the lives and business of people that pay taxes in the City of Goshen and that this should be a bigger concern than helping an out of town company. He urged the Board to deny the request to allow for the recycling of food waste.

Lela Santos, 20164 CR 19, stated that she lives right next door and that this site surrounds her whole property. She stated that she doesn't agree with the 7:00 am time listed in the Staff Report and also expressed concern regarding the odors. She stated that she doesn't want to have to look at this and reminded the Board that this site used to be a dump and that, if this is allowed, it will be a dump again. She stated that they want to enjoy their yard and don't want to smell this waste as the leaves smell bad enough. She advised that it was closed down in the past because of the odors. She asked that the Board deny the request.

Mr. Friesen asked the audience members in opposition to the request to raise their hands. Everyone in the crowd raised their hands.

Thomas Obringer, 20097 CR 19, stated that his concern is that what types of food will actually be disposed of in the dumpsters. He asked if anyone has checked out what is in them.

Tammy Zieger, 20169 CR 19, stated that the dump has been an issue for years and that the neighboring property owners are just looking out for their property values. She pointed out that there are a lot of unanswered questions. She noted that bakery items have bread, milk and flower in them and asked if those items will have an odor during the heating process. She stated that they have been very resilient neighbors but asked why they should add to the issues. She commented that traffic is already an issue and asked for clarification as to where this would be taking place on the site. She informed the Board that the county residents have to pay to utilize this site even though the City residents do not. She asked if the heating process will be covered and suggested that this be looked at more carefully at a working facility. She also asked if it will be for more than just Wal-Mart facilities.

Helen Pollock, 20262 CR 19, stated that this site was a landfill in the 1960's and that it was a problem then. She advised that she is not looking forward to it happening again and is already concerned about what is buried on the property. She informed the Board that the City used to dump sewage at this site and advised that she has photos of the waste laying on the roadway at the entrance to the property.

Mike Crow, 20202 CR 19, stated that a big concern is the brush that is always falling out of the trucks entering the site. He stated that the neighbors are constantly having to pick up brush from the roadway and that the materials clog the ditch along CR 19. He advised that he has gotten the news involved in an effort to get the ditch cleaned out. He stated that he owns Maple City Remodeling and that he goes to the landfill every two weeks and that there is always trash up and down the roads in the area of the landfill. He advised that he doesn't want the same issues in this neighborhood. He further explained that he has three sons that play on their 1.5 acres of land and that he doesn't want

them out there with the odors, airborne pathogens, etc... He commented that this request can be glorified but that the bottom line is that this is going to be waste. He pointed out that Wal-Mart is looking at the financial aspect of this and not at the neighborhood aspect of this process. He informed the Board that nothing was provided to the neighborhood other than the notice that was sent out for this hearing. He closed noting that they would like to see all trucks going in and out covered with tarps, explaining that this is required at the landfill to avoid additional charges and pointing out that this could be an additional way for them to make money.

Lela Santos, 20164 CR 19, noted that there are leaf piles right against her property line. She also questioned what the orange trucks are that come to the site daily.

Amy Magallanes, 20248 CR 19, informed the Board that there are rats in the area and that they are the size of footballs. By approving this, they'll just multiply and be worse and that they don't need this brought into the neighborhood. If approved, she stated that the neighbors should be able to go back in there whenever they want to see what's going on and to check to see what they're dumping. She advised that the existing mulch stinks and that the addition of this food waste will only make it worse.

Victor Drapeza, 20278 CR 19, stated that this should be put into the Board members' backyards for a year to see if they like it.

Dan Plant, Soil Solutions at 20100 CR 19, stated that they would suggest having an open house to address the various concerns from the neighbors. Regarding the odor, he noted that they are in the middle of a cleanup stage and that they're clearing up what was left when they began operating at this site. He stated that the cleanup will be completed this year and that the old materials will be gone.

Ms. Huffman asked what is causing the odors at this point. Mr. Friesen noted that the odors are likely the result of moving around the old materials.

Mr. Plant explained that, starting now, what goes in will then go out and that there will be no large piles on-site. Regarding the traffic, he stated that there may be an extra five (5) trucks per day. He explained to the Board that this process is not an untried process but that there are no similar facilities nearby that they can drive to go see. He stated that Wal-Mart is very strict about this type of process and that they feel confident that they will only dispose of acceptable products into the dumpsters. He noted for the record that they do have water in the building on site but confirmed that they have no well water on-site.

Ms. Huffman asked if they have anyone that polices the streets around the facility. Mr. Plant stated that they haven't but will start to make sure that things are being maintained as needed in the area.

Mr. Holtzinger questioned the presence of rodents. Mr. Plant stated that he has not seen any rodents although he has seen deer. He advised that there is currently nothing on their site for them to eat or that would attract them.

Ms. Fairfield asked if there are birds in the area. Mr. Plant stated that they have hawks and crows but no seagulls.

Ms. Fairfield also asked how often the windrows are turned. Mr. Plant stated that it is determined by temperature. He noted that they operate very expensive machinery and that they have to be able to cover their costs.

Ms. Huffman questioned whether or not there will be a need for this material. Mr. Plant stated that this has never been an issue and that their product is organic with no chemicals involved. They foresee that this product will be even more desirable as the price of pesticides continues to rise.

Ms. Huffman noted that Soil Solutions has only been operating at this site since July and that a lot of people messed up before they began started. She questioned why they're operating on such a short contract. Mr. Plant stated that they understand as they're still in the cleanup phase. He stated that they're hoping to be able to negotiate a longer contract term in the future.

Regarding the containers to be utilized by Wal-Mart, Mr. Plant stated that they're not yet using them but that they will if this is approved and that they will be separating out the waste to be placed into them. He stated that during the

composting process, all the ingredients such as eggs and milk will be broken down. He informed the Board that there are no proven cases of biosolids having any effect on people.

Mr. Sailor suggesting that the Board table the portion of the request concerning the food waste yet allow the operations to continue as they currently are with the addition of the sale of additional landscaping items.

Regarding the groundwater in the area, he advised that the City has completed sampling and that they are at least five (5) feet above the groundwater table. He confirmed that this was previously operated as a landfill and also as a stabilization facility for the waste water treatment plant. During that time, he advised that they capped the site with clay and that the clay layer is still in place. He noted that there is still a lagoon on-site and that it is still in effect and operating. He explained that it acts as the City's emergency facility if the lagoon at the treatment plant ever has a problem. He confirmed that the orange trucks are City trucks and that they're on-site as part of the waste water facility and their hydro excavation process. He stated that they do clean sanitary sewers and put that water into the lagoon where natural evaporation occurs. Once that takes place, they then dispose of the materials at the landfills. Mr. Sailor informed the Board that, in the past two (2) years, he has not seen any rats while at the facility. Regarding the drainage ditch issue along CR 19, he advised that the City has no jurisdiction.

Ms. Huffman asked if the City can work with the county on this matter. Mr. Sailor advised that it had never been brought to his attention and that the City is unable to do anything unless it is a direct problem generated by the City.

Ms. Fairfield asked if the City was aware of the concerns regarding this property. Mr. Sailor advised that there have been no complaints that he is aware of. Mr. Hauflaire confirmed that he is unaware of any complaints since the previous variance was granted in 2004.

Lela Santos, 20164 CR 19, stated that this facility is bringing down the value of their homes. She stated that they've already been on the news for the drainage issues caused by this use and that she is also concerned about the roots of the trees that the City planted damaging her yard.

Thomas Obringer, 20097 CR 19, asked how many Wal-Marts will be involved with this process and where they will be coming from. He advised that he had assumed that they would be local but realizes that it may be more than that.

Helen Pollock, 20262 CR 19, stated that there is also sandy soil at this site and that you can see where rubber is coming up out of the ground. She also noted that there were bottles of ether at this site and that she would like to see the ground tested before all of this occurs.

Fred Buttell, 825 W. Wilden Avenue, stated that there is a water problem in this area and asked how that issue will be handled. Mr. Sailor advised that IDEM requires a five (5) foot separation for groundwater and surface water.

Mr. Buttell asked how the river level affects those numbers. Mr. Sailor stated that he was unable to answer that question but advised that previous studies indicate that these operations are not within that five (5) foot range that would indicate a problem.

Mr. Buttell asked what will happen if there is another flood like the one that occurred in 2008. Mr. Sailor advised that groundwater and surface water are two different issues.

Mr. Plant agreed that tabling the food waste request would be appropriate at this time.

Public hearing was closed.

Staff Report & Discussion

Ms. Huffman stated that it appears that Soil Solutions is really trying and that she would like to be able to give them an opportunity to improve this.

Mr. Hauflaire suggested amending Condition #2 to read “is not to be expanded” and deleting Condition #5.

Ms. Huffman asked if they should address the 7:00 am complaint.

Attorney Kolbus asked the Board what additional information they would like to obtain if the matter is tabled. Ms. Huffman stated that she would like to see more information regarding other locations where this is already occurring, how other Wal-Mart's handle this and how exactly it will be controlled.

Ms. Fairfield noted that this is an R-1 zoning district and asked if this is really something that should be operating at this site. In response, Mr. Riegsecker noted the adjacent zonings.

Ms. Huffman pointed out that composting is already happening at this site and that this would be allowing them to add an additional method of composting.

Mr. Riegsecker stated that he thinks that this will ultimately be okay for this site but that the request is coming too soon. He stated that he would like to see the cleanup work completed. He noted that this appears to be a good company that is trying to do the right things but that he would like to see more research completed.

Mr. Friesen stated that he would be in favor of tabling this for a month and giving them time to be better prepared.

Action

A motion was made and seconded, Huffman/Holtzinger, to grant petition 10-03UV with the food waste portion of the petition being tabled until the February 2010 meeting and with the following conditions in place effective immediately:

1. The variance shall for a period of one year from the approval date. After that time period, a new public hearing shall be held before the BZA and a decision shall be made at that time if the use variance continues.
2. The by-product may be sold on-site and includes mulch, compost, or animal bedding. In addition to the by-product being sold on-site stone, and landscape fabric, and similar items may also be sold. This does not include the sale of nursery stock.
3. Grinding hours shall be from Monday through Friday from 8:00 am to 5:00 pm not more than two days per week.
4. Hours of business shall be as follows:
 - Summer Hours: March through October: 7:00 A.M. to 7:00 P. M.
 - Winter Hours: November through February: 7:00 A. M. to 6:00 P.M.
5. Violation of any State of Indiana permit application regulation shall immediately revoke BZA approval.
6. A complaint related to odor, noise, vermin infestation, or other nuisance related to the granting of the variance may be brought at any time to the Zoning Administrator. Any complaint is substantiated by Goshen Zoning Administrator may be brought before the Board of Zoning Appeals at a public hearing to show cause why the variance shall not be revoked.

The motion passed, 4-1, with Mr. Riegsecker voting against the petition.

The audience was advised that the portion of the petition regarding food waste will be heard again on February 23, 2010, with the petitioner providing more information.

10-04UV – The City of Goshen Redevelopment Commission requests a use variance to permit the inside storage of vehicles, boats, RV's, furniture, personal/household items, construction/contractors materials and supplies, or similar items which are not permitted to be stored in a detached garage on the property. The subject property is generally located at 213 S. 3rd Street and zoned Commercial B-2.

Mr. Hauflaire reviewed the request, noting that a variance was granted for this property in 1989 allowing for the construction of some large accessory buildings on the property. He stated that the structures were originally for the use of a uniform cleaning business. He further stated that the business is now gone but that the buildings remain. He explained that the Redevelopment Commission has purchased these properties and that the residential units are now rentals. He reviewed the proposed conditions listed in the Staff Report and noted that the property owner to the north has no objections to this request.

Petitioner Presentation

Mark Brinson, Goshen Community Development Director, 204 E. Jefferson Street, explained the history of this

property and that it is an income property for the Redevelopment Commission. He advised that the previous occupants have vacated the structure and that the request is to allow more flexibility to be able to rent it out while the City determines a future reuse for this site. He advised that there is no interest in outside storage of any kind and that the adjacent neighbor is on board with the request. He stated that he is familiar with the Staff recommendations and is hoping that Property Management will be able to find a tenant for the space.

Audience Comments

There was no one to speak to the petition.

Public hearing was closed.

Staff Report & Discussion

There was no discussion amongst the Board.

Action

A motion was made and seconded, Riegsecker/Holtzinger, to grant petition 10-04UV with the conditions listed in the Staff Report. The motion passed, 5-0.

IX. Audience Items: none

X. Staff/Board Items:

A motion was made and seconded, Huffman/Holtzinger, to approve the 2010 Schedule of Meetings. The motion passed, 5-0.

09-21DV – Realty Income Corporation & O’Reilly Automotive, Inc. request a developmental variance to permit a 14’ driving aisle setback adjacent to Elkhart Road where 35’ is required. The subject property is generally located at 1613 Elkhart Road and zoned Commercial B-3.

** The petitioners are requesting a six (6) month extension.**

A motion was made and seconded, Huffman/Riegsecker, to grant a six month extension for 09-21DV as requested. The motion passed, 5-0.

XI. Adjournment: 6:25 PM

Respectfully Submitted:

Becky Hershberger, Recording Secretary

Approved By:

Ardean Friesen, Chair

Karen Fairfield, Secretary