

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

22-W-REZ-8 ZONE MAP AMENDMENT
Lehman Real Estate Holdings, LLC
65 East Morsches Road

MAY 17, 2023
AGENDA ITEM: 1

This case was initially heard at the December meeting and tabled for the petitioner to revise. It has been re-notified for this meeting, and this report has been updated accordingly.

SUMMARY OF PROPOSAL

Current zoning: RR, Rural Residential
Proposed zoning: VC, Village Commercial
Property area: 0.932± acres

The petitioner, owner of the subject property area, is requesting a zone map amendment for approximately 0.932 acres located at 65 East Morsches Road in Section 4 of Thorncreek Township. The requested zoning for the subject property is VC, Village Commercial, with commitments to limit the permissible land uses and modify various standards.

Existing zoning classifications and land uses

Currently, the subject area is zoned RR, Rural Residential, and was used for a golf course club house by the previous property owner. That use was considered as a legal nonconforming use of the parcel due to the golf course operating since 1927.

The following table lists current surrounding zoning classifications and land uses:

	<i>Current zoning</i>	<i>Current land use</i>
<i>North</i>	RR, HI (Noble Co. High Impact)	Woods/vacant, cell tower
<i>East</i>	RR, LR	Woods/vacant lots, residences
<i>South</i>	RR	[Morsches Road], 5-lot subdivision (former golf course)
<i>West</i>	RR, AG	Vacant, [State Road 109], church, residences, field

Proposed land use

The petitioner is requesting the zoning amendment to use the property for sales of garage door parts. The under construction 40'x102' pole barn in the former parking area would be for this business and/or for the petitioner's own personal storage. If for the business, this structure would be to store product for their parts sales business. Extension of public sewer to this site is expected, although it may not be necessary in conjunction with only this building.

Zoning code criteria

The stated intention of Village Commercial district is for use in the unincorporated small towns, and the Plan Commission is to strive to apply it only in in downtown areas and immediate surroundings. It is stated that the VC district is compatible with RR, MR, and LR districts. This site is not in or near a town, although it is surrounded by RR zoning and near LR-zoned lake development.

The VC district has apparently been inconsistently applied historically. For example, Laud has only one VC property, which is vacant, while the town's commercial buildings are zoned AG or RR. Additionally, despite VC being suggested as compatible with LR, even though GC is not so designated, virtually all commercial properties in the Tri-Lakes area are zoned GC, for example Center St. north, east, and south of Shriner Lake.

However, business properties at Goose Lake and Blue Lake are zoned VC. It is suspected that this may have been done as a “light commercial” designation to avoid usage of the General Commercial district, which permits slightly more uses than VC. The VC zoning district permits many commercial uses, mostly of relatively light intensity.

As stated above, the requested is to operate a garage door supply business. Building material sales is a permitted use in VC, but not in the current RR zoning.

December hearing summary

At the December hearing, there was much discussion about the appropriateness of the VC zoning in this location. Concerns were raised about permitting any commercial uses whatsoever on this site, the volume and type of traffic generated, the size of proposed buildings, environmental impacts to the lake, and other matters. In the end, the Commission narrowed down their primary concerns to the intensity and number of uses permissible in VC as may be applied to this property. They requested that the petitioner consider options to address these and the issues brought by remonstrators and tabled the case to a future date with re-notification required.

Revised petition

Since December, the petitioner has met with representatives of the Crooked Lake Association multiple times. This has yielded the submitted zoning commitment that would reduce the number of permissible uses to about a third of those permissible in the zoning district. It is staff’s understanding that the petitioner and Association agreed on this list of uses.

The petitioner has discussed additional commitments regarding limitations on development (e.g., setbacks) and performance standards (e.g., loading configuration). These were still being discussed with the Crooked Lake Association as of the time of this writing. They are expected before the meeting and will be distributed to members.

REVIEW CRITERIA

Indiana Code §36-7-4-603 and Section 12.2(F) of the zoning ordinance state the criteria listed below to which the Commission must pay “reasonable regard” when considering amendments to the zoning ordinance. Staff’s comments are under each criterion.

1. The most recently adopted Comprehensive Plan;

The most recently adopted Comprehensive Plan is the 2022 Plan. Generally, economic development in appropriate locations is encouraged by the Plan.

The Future Character and Land Use Plan designates this property as Mixed Rural, with Rural-Agricultural to the west of SR 109 and Lake Village on the fringe of the lake. Mixed Rural is expected to be primarily a mix of agricultural uses and increasing residential uses, with “local scale commercial/retail” as anticipated secondary uses. Similarly, the Lake Village and Rural-Agricultural character types suggest that local scale or small-scale commercial could be in character as minor components of those areas.

The proposed VC district should be consistent with the “local scale commercial” recommendation.

The petitioner’s reduced list of uses seems to remove many of the potentially more intense uses, such as automobile services, general businesses, many types of retail and food services, and other uses. This proposal does not conflict with the “local scale commercial” recommendation, nor does it seem to limit the property to only the current owner’s proposal.

2. The current conditions and the character of current structures and uses in each district;

The property is located among mostly undeveloped and proposed large-lot residential properties, although it fronts on the only road serving at least two dozen residential properties. The proposed use of this site for small-scale commercial may not have much different effect than the golf course use that has been there in the past, if the traffic generation is similar. More intense commercial uses, such as some uses allowable in the GC district or some as VC special exceptions, may not be compatible.

As mentioned above, the petitioner's commitment to restrict many uses of the VC district should aid in keeping the intensity of the uses at a scale that is compatible with the area and for the size of the site.

3. The most desirable use for which the land in each district is adapted;

This site has been established with a non-residential and non-agricultural use, so it may be desirable to continue such at this site as opposed to another location that has not been so established. However, conversion to a residential or agricultural use may also be desirable.

4. The conservation of property values throughout the jurisdiction;

The change of zoning of this site to commercial could have impact on the value of adjacent residential properties if the use is not kept to a smaller scale. The VC district permits smaller-scale commercial, but some of its more intense uses could have more impact on values, especially if it causes traffic congestion along Morsches Road.

The petitioner's commitments regarding use and standards should reduce incompatibility of uses that could significantly impact property values in the immediate area. Review of the Development Plan for any new primary commercial structures would also help to ensure compatibility of the commercial site.

5. Responsible development and growth;

As discussed in the Comprehensive Plan, some small commercial and retail uses can be appropriate secondary or supporting uses in rural and residential areas. As this property already has been established for a commercial use, this site may also be appropriate for a smaller commercial use, with appropriate checks to ensure that the uses are kept small-scale.

In this case, the 0.932-acre parcel size inherently limits the practicality of several more intense uses permissible in VC, especially those that might require large amounts of parking. However, the proposed zoning commitments that limit some of the less compatible uses could be an appropriate means to ensure that scale is kept in character and to provide reassurance to existing property owners in the area.

The Commission also should consider if there are longer-term implications of this rezoning request, such as whether this rezoning would lead to "commercial creep" that encourages rezoning of surrounding properties, the effects of traffic if any larger or popular uses are located on the site, or other effects.

6. The public health, safety and welfare.

It seems unlikely that the public health, safety, and welfare would be affected by this proposal since the future use of the site would be, as proposed, equal or less impactful than the prior usage.

Date report completed: 5/11/23

PLAN COMMISSION RECORD OF ACTION

Motion:

By:

Second by:

Favorable recommendation ____

Unfavorable recommendation ____

No recommendation ____

Conditions/Commitments? ____

<i>Vote:</i>	Baker	Drew	Emerick	Green	Hodges	Johnson	Kurtz-Seslar	Schuman	Wolf
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									