

Minutes of Meeting
Plan Commission
May 12, 2021

The Plan Commission of the City of Washington met May 12, 2021, at 6:30 p.m. in the City Council Chambers. The following members were present: David Dahl, David Grannan, David Gray, Ed Barnett, Dan Gress, Mark Arnold, Doug Stradtner, Geoff Stoner, and William Summers and City Attorney Tim Dant. Member absent were Tom Stephens and Tom Graham Jr. Also, present were Building Commissioner Jon Casper, Code Enforcement Officer Brandt Powden and Secretary Maria Sergesketter.

Plan Commission President William Summers called the meeting to order.

- The minutes of the meetings held on April 14, 2021 were approved. A motion made by David Dahl, seconded by David Gray. A voice vote was taken with all members present voted in favor. Motion carried.

Case RP-1-21: J & L Home Center, LLC is requesting the approval of Lots 8, 9, 20, and 21 Deerfield subdivision, and all proposed necessary infrastructure thereof: Commonly known as the property located on the west side of Bussard Road (S 100E), 1450' South of old US 50, and more particularly described as: Part of location 134, Township 3 North, Range 7 West, City of Washington, Indiana being more particularly described as follows: Commencing at the southeast corner of Location 134, Township 3 North, Range 7 West, thence along the East line of said Location 134, North 00 degrees 32 minutes 34 seconds West 500 feet to the Northeast Corner of a tract of land conveyed in Instrument #08-5554 (Hughes) said point is also the Point of Beginning of this description; thence along the North Line of said Instrument, North 89 degrees 32 minutes 16 seconds West 349.88 feet; thence North 00 degrees 32 minutes 34 seconds West 489.15 feet to the South line of a tract of land contained in Deed Book 144, Page 737 (Roark); thence along the South line of said Deed Book and Page, South 89 degrees 28 minutes 43 seconds East 96.16 feet to the Northwest corner of a tract of land contained in Instrument Number 17-1479 (Essex); thence along the West line of the Essex tract and the West line of a tract of land contained Instrument Number 14-3096 (Queen), South 00 degrees 30 minutes 33 seconds East 237.91 feet to the Southwest corner of the Queen tract; thence along the South line of the Queen tract, North 89 degrees 27 minutes 18 seconds East 253.83 feet to the East line of Location 134; thence along said East line of Location 134, South 00 degrees 32 minutes 34 seconds East 255.60 feet to the Point of Beginning, containing 2.555 acres more or less. Subject

to any and all easement and rights of ways of record. Jason Knepp was present to answer any questions and explain his plan. The Board did not have any questions. Attorney Grant Swartzentruber and Daviess County Economic Development Corporation Executive Director Bryant Niehoff thanked Jason for building beautiful, quality homes in Daviess County where housing is needed. Without any other questions President Bill Summers requested that the secretary, Maria Sergesketter, take a roll call vote. With Tom Stephens and Tom Graham Jr. being absent, Motion passed 9-0.

Case W-18-21: Amazon is requesting waivers. The waivers included are altering the exterior façade of the building by adding garage doors to the south side of the building, adding awnings over the overhead doors, adding additional security lighting. The property is located at the 5 Cumberland Drive. Parcel number is 14-13-03-304-002.000-016. It is zoned C-4, Commercial Roadside Business. Kye Hofman, Owner of Ana Lou's, along with his Attorney Jeff Norris, Markus Foerster, Alex Derkson, Kyle Degiulio all of Amazon's team via phone and the Architect Linda Kanoski that worked with Amazon on this project, via phone as well. Several others were present as well. Steve Dayton owner of Putter's Bay Miniature Golf, Daviess County Economic Development Corporation Executive Director Bryant Niehoff, Debbie Goodwin, and Attorney Grant Swartzentruber. Adjoining property owner Kush Patel, GP Hospitality Group, sent in a letter saying he was in favor of Amazon coming to Washington but thought another location would be better for them. President Bill Summers told the Plan Commission members that the only reason we are here at the meeting is because this site is in the Overlay zone. He also stated that Amazon has complied with the covenants and received the Design Approval Letter from Cumberland Enterprises, Inc. Mr. Hofman told the Board that he has always tried to be a good Corporate Citizen. He was the one to build the Ponderosa Building in Washington over 22 years ago and due to Covid-19 the restaurant closed. He was pleased to announce that he would be bringing Amazon to Washington. He was the only one to receive a proposal from Amazon and was happy to accept. Mr. Degiulio of Amazon explained how the business would operate. He called the building an exchange point. The warehouse in Indianapolis would send packages that are created from customer demand to Daviess County. Only smaller box trucks would be delivering to 5 Cumberland Drive. The hours of operation would be 4:15 a.m. to 4:15 p.m. – 7 days a week. There would only be approximately 8 deliveries a day to this location. Once received, it would be prepared for delivery. They would hire up to 100 Flex Drivers making \$22 per hour and 5 to 10 Amazon workers making \$15 per hour to sort out deliveries. President Bill Summers asked about the changes being made to the building. Amazon's Markus Foerster stated that there would be

that there would be 2 roll up doors on the Southside of the building and an awning on the North side of the building. Building Commissioner Jon Casper asked about extra fire exits? Architect Linda Kanoski stated that there would be 2 sets of double doors on the northside of the building. Board Member David Dahl asked about the canopies. Ms. Kanoski stated that they will be deeper and have columns. Building Commissioner Jon Casper asked Amazon to explain the flow of traffic. They responded and the Board was able to follow the diagram that was provided. He also wanted to clarify that they are not using Stop arms but just stop signs. It was addressed about enough parking for 100 flex drivers. The current parking lot currently has 165 parking spots. Mr. Hofman explained that C.E. Taylor Oil will be taking over the monument sign and Amazon has no plans currently to place any signs. Attorney Grant Swartzentruber read the letter from Mr. Patel. He also informed the Plan Commission that he owned the property to the east of the unfinished Hampton Inn. He is part of the KSVH1 group. They would like to build townhomes, but also recognizes that this project would need to appear before the Plan Commission as well. He stated that he thought that this location was not good use for light/heavy industry. Mr. Swartzentruber clarified that he would love to have Amazon in Washington but is concerned about this particular location. Attorney Jeff Norris added that this is not a warehouse but a freight exchange location. Mr. Swartzentruber had several concerns about the Estoppel Certificate. For instance, #5. See attached certificate. Alex Derkson of Amazon explained that the Estoppel Certificate is broader than they were needing for this project. Plan Commission Board Member David Dahl stated that warehouse/freight exchange is allowed in C-4. Mr. Swartzentruber agreed with his statement. Mr. Swartzentruber stated that there are things in Chapter 155 in the City of Washington Zoning Ordinance that are not allowed such as outside storage which is listed in the Design Approval Letter. Mr. Derkson restated that Estoppel Certificate/ Design Approval Letter is broader than they were needing for this project. Mr. Swartzentruber thanked the Board for their time and consideration. Steve Dayton owner of Putter's Bay Miniature Golf asked the Board to look at all the information and mirrored Attorney Grant Swartzentruber's comments. Building Commissioner Jon Casper asked about a green screen. President Bill Summers said that might be hard to do since the blacktop runs almost to the fence. There may not be enough room. The Board Concurred. Attorney Jeff Norris reminded the Board that the Estoppel Letter was a private document, similar to that of a neighborhood covenant. Also, they have complied with all the Covenants that they had to follow. City Attorney Tim Dant stated that if Amazon does not comply with all City Ordinances the City can send out a letter asking for Compliance. If they do not comply then the City will pursue the matter. Board Member David Dahl stated that this is all subject to compliance of City Ordinances. Without any other questions President Bill

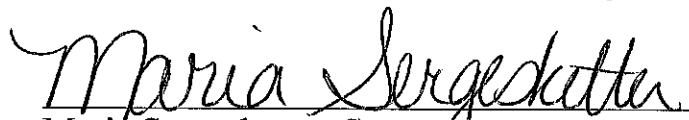
other questions President Bill Summers requested that the secretary, Maria Sergesketter, take a roll call vote. With Tom Stephens and Tom Graham Jr. being absent, Motion passed 9-0.

In other business. Building Commissioner Jon Casper informed the Plan Commission that as of now we might have a meeting in June.

With no other business, the meeting adjourned at 7:30 p.m.



William Summers, President or Acting President



Maria Sergesketter, Secretary

Kush Patel
GP Hospitality Group
703 N. First Ave
Evansville, IN 47710

Wednesday, May 12, 2021

Daviess County / City of Washington:

I would like to take this opportunity as an adjoining land owner to voice my opinion on the proposed Amazon Facility at 5 Cumberland Drive, also known as "Ponderosa."

Personally, I buy various products and items on Amazon frequently, and believe a company with the reputation of Amazon, and the potential for job creation for the city of Washington and Daviess County is a very positive aspect of the project.

However, I believe the project, while overall beneficial is not in an ideal location. As proposed, the Amazon facility would be of an industrial use. Putting an industrial use, or warehouse type facility in one of the strongest retail corridors in Daviess County would be a mistake in my opinion.

I believe there are several other sites that would be most suitable for Amazon.

Let me reiterate, I want Amazon in Daviess County, but I think putting them in the current proposed location would be a detriment.

Sincerely,
Kush Patel

EXHIBIT A TO ESTOPPEL

DESIGN APPROVAL LETTER

[date]

FROM: CUMBERLAND ENTERPRISES, INC.

TO: ANNA LOU'S, INC.

RE: Cumberland Enterprises, Inc.'s approval of proposed plans for 5 Cumberland Drive, Washington, Daviess County, Indiana.

TO WHOM IT MAY CONCERN:

Thank you for your submittal of the proposed plans and specifications attached hereto as Exhibit A-1 (the "Plans"), for a distribution facility located at 5 Cumberland Drive, Washington, Daviess County, Indiana owned by Anna Lou's, Inc., an Indiana corporation ("Owner"). Cumberland Enterprises, Inc. ("Declarant") has reviewed the Plans pursuant to the Deed of Dedication recorded on May 9, 1994 in Daviess County, Indiana, in Plat Drawer No. 1 Card No. 16, as Instrument No. 94-2064, as modified by that certain Waiver of Conditions, Covenants and Restrictions recorded on July 30, 1997 as Instrument No. 97-3134 in Recorder of Daviess County, Indiana (as amended, the "Declaration"). Capitalized terms used but not defined herein will have the meanings given to them in the Declaration.

1. **Compliance.** Declarant certifies that (i) the existing improvements upon the site consisting of a 12,000 square foot building and related parking and improvements located at 5 Cumberland Drive, Washington, Daviess County, Indiana (the "Site"), have been approved pursuant to the Declaration; (ii) Declarant has no knowledge of any violation by Owner or the Site of any regulations or rules of the Declaration; and (iii) pursuant to Sections 9, 12, and 16 of the Declaration, Declarant has reviewed and approved of the Plans, which Owner and/or its tenant shall have the right, but not the obligation, to construct or cause to be constructed.
2. **Approval Rights.** Declarant acknowledges that its approval rights pursuant to the Declaration apply only to exterior features and improvements. Declarant hereby certifies and confirms that no further consent, approval, variance or other action is required from Declarant with respect to the Plans.
3. **Waiver for Certain Uses/Improvements.** Subject to compliance with all applicable laws, Declarant, pursuant to its authority under the Declaration, hereby waives the requirement for Declarant review or consent of the installation and/or use of the following on the Site, in addition to what has been previously approved:
 - a. loading and servicing areas
 - b. electronic transformers and switch equipment
 - c. screened emergency or stand-by generator
 - d. lighting
 - e. screened equipment on the rooftop including HVAC and related equipment
 - f. fixtures attached to the rooftop
 - g. guard shack
 - h. smoking shelter

- i. fence, guard-rail, screen, or other barrier for parking lots, subject to the Declaration
- j. nonpermanent staging of equipment
- k. screened trash, garbage, and refuse disposal areas
- l. landscaping, subject to the Declaration
- m. modification of traffic lanes/parking areas
- n. outside storage
- o. signage
- p. ramps
- q. grease traps
- r. fuel cells and solar or other renewable energy systems

MR

Sincerely,

CUMBERLAND ENTERPRISES, INC.

By:

Name:

Title:

Date:

Malcolm Redcliffe
Malcolm Redcliffe
V. P.
4-8-2021

ESTOPPEL CERTIFICATE

DATE: 4-8, 2021
FROM: Cumberland Enterprises, Inc.
TO: Anna Lou's, Inc. and its successors and assigns.

RE: Deed of Dedication recorded on May 9, 1994 in Daviess County, Indiana, in Plat Drawer No. 1 Card No. 16, as Instrument No. 94-2064, as modified by that certain Waiver of Conditions, Covenants and Restrictions recorded on July 30, 1997 as Instrument No. 97-3134 in Recorder of Daviess County, Indiana (as amended, the "Declaration").

Ladies and Gentlemen:

This Estoppel Certificate ("Certificate") is given to Anna Lou's, Inc. ("Owner") by Cumberland Enterprises, Inc., ("Declarant"), with the understanding that a prospective tenant ("Tenant") is considering leasing 5 Cumberland Drive, Washington, Daviess County, Indiana (the "Property"), from Owner and will rely on this Certificate in connection with the lease of the Property. Capitalized terms used but not defined herein will have the meanings given to them in the Declaration.

The Declarant hereby certifies as follows as of the date hereof:

1. To the undersigned's knowledge, there are no uncured defaults under the Declaration related to the Property.
2. Pursuant to a letter of even date herewith ("Design Approval Letter"), attached hereto as Exhibit A, the Declarant has reviewed and approved of the proposed use and plans for the Property. In addition, the Declarant has approved certain uses and/or improvements, to be constructed now or in the future by Owner or Tenant, as more particularly described in the Design Approval Letter.
3. The Declarant acknowledges that the Declarant's approval rights pursuant to the Declaration apply to exterior features and improvements only.
4. The Declaration is in full force and effect.
5. Declarant acknowledges that the Property may be used for the purpose of receiving, storing, assembling, shipping, distributing, preparing, selling, and serving as a pick-up/drop-off location for products, materials, food, grocery, and liquor items; parking, storage, and use of automobiles, trucks, machinery, and trailers, including outdoor loading and unloading; printing; making products on demand; warehouse and office use; ancillary and related uses for any of the foregoing; and any other use in compliance with applicable laws, and (ii) that the same do not individually or collectively constitute a nuisance or annoyance under Section 7 of the Declaration.
6. This Estoppel Certificate may be relied on by Owner, Tenant, and their respective tenants, subtenants, lenders, successors and assigns.

Sincerely,

CUMBERLAND ENTERPRISES, INC.

By: Malcolm Reddick
Name: Malcolm Reddick Jr.
Title: V.P.
Date: 4-8-2021