

Minutes of the Owen County Plan Commission

October 4th, 2007 7:00 P.M.

Owen County Courthouse, Commissioners Room 2nd Floor

Members Present: Gwen Dieter, CitizenMember
Dwight Dunigan, Citizen Member
Regina Gaphart, Citizen Member
Anton Neff, Council Member
Benton Pittman, Citizen Member
Wiley Truesdel, County Commissioner
Gib Tucker, County Surveyor

Members not Present: Mark Evans, Ag Extension Agent
Edward Raymer, Citizen Member

Public Present: Richard Lorenz
Bob Price
Tony Livingston
Becky Livingston
Charles Lane
Alma Lane
Dave Roberts
Connie Roberts
Sheri Cline
Teddy Cline
Edward Eggers
Mitchel Eggers
Eddie Brown II

In the Matter of Conducting the Minutes

Meeting was called to order by Anton Neff with the pledge to the flag.

In the Matter of Minutes

Benton Pittman: Motions to approve the September 13th, 2007 minutes

Gib Tucker: Seconds the minutes

Passes: 7-0

In the Matter of Old Business

Twin Tulips called and rescheduled for November 1st meeting

In the Matter of New Business

Cutters Stone Company LLC

Eddie Brown and Edward Eggers own a limestone cutting company in Ellettsville and are wanting to move the business to Owen County. The site they found in Owen County is zoned as Residential but has been used as Commercial in the past. They are asking to rezone as Heavy Industry from Residential.

Richard Lorenz: Mr. Chairman if I may, they have asked County that I assist the presentation on this matter. I have the copy of the newspaper notice as well as the certification of the notice of adjacent land owners. Does everyone have a copy of the application in front of them. You will notice that the application is made by Cutters Stone Company LLC and its representatives Eddie Brown and Edward Eggers have signed the petition. This is an application because they are going to be tenants on property owned by Lee Stellmazhen and he would be the owner at the present time. This is an application for rezoning and it is to industrial. We have previously noted on this particular tract of land that the County had marked it for Residential purposes on the Planning and Zoning Map. Conversely the most recent use has been Commercial and possible Industry. It was used to store basement water proofing chemicals at that location. That has been abandoned for some period of time. What I would like to do to get information in front of you is ask a series of questions to these representatives if I may to bring this matter to a clearer light if we can. State your name?

Eddie Brown

Richard Lorenz: Where is Cutters Stone Company doing business currently?

Eddie Brown: Ellettsville, IN.

Richard Lorenz: How long have you been doing business there?

Eddie Brown: We have been doing business there for nine Months

Richard Lorenz: Any activity before that time?

Eddie Brown: No

Richard Lorenz: With regards to the property in Ellettsville, what do you do on the property site?

Eddie Brown: Hand cut limestone, basically fabricate stone.

Richard Lorenz: The limestone is brought to the property or is it mined on the property?

Eddie Brown: It is brought to the property.

Richard Lorenz: Then you cut it, Is that correct?

Eddie Brown: Yes

Richard Lorenz: What kind of saws do you use to cut it?

Eddie Brown: We have wet saws, and then of course with limestone when it comes to finishing we use air tools and hammers.

Richard Lorenz: With regards to the operations, do you then have this sold retail on the site or do you sell it to other vendors?

Eddie Brown: Contractors contact us ask us to make the stone and we make it then take it to them. We do not have vendors come to the property.

Richard Lorenz: With regards to the property in Ellettsville, Do you have an enclosed area for work at that location?

Eddie Brown: Yes

Richard Lorenz: Moving to the new site that you are proposing in Owen County, Why are you wanting to acquire that property?

Eddie Brown: We need to expand, My property was annexed into Richland Bean Blossom they changed me from C3 to a C1 which is still Commercial property but not heavy Industrial to sustain a limestone company.

Richard Lorenz: The property in Owen County is located where?

Eddie Brown: At 4330 Lanes Road.

Richard Lorenz: Does the aerial picture show all the adjacent landowners to this property?

Eddie Brown: Yes

Richard Lorenz: Based upon the drawing, there is an area that I colored in black, can you tell the Board what that area is?

Eddie Brown: That is the main building that we will be using.

Richard Lorenz: What is the size of the building

Eddie Brown: It is 50 by 120 feet

Richard Lorenz: Can you describe the building for the Board?

Eddie Brown: It is metal siding Pole Barn type style building.

Richard Lorenz: How tall is it?

Eddie Brown: It is about 18 to 20 feet tall.

Richard Lorenz: Would you make improvements, modifications to that building for your purposes?

Eddie Brown: We would make improvements to it, but we would not alter the building any.

Richard Lorenz: Would you use any type of crane inside of the building?

Eddie Brown: Boom crane.

Richard Lorenz: Would you use any saws inside of the building?

Eddie Brown: Wet saw

Richard Lorenz: Can you explain to the Board what a wet saw is?

Eddie Brown: It is a big diamond saw which water runs through to cut limestone.

Richard Lorenz: The specific reason to use a wet saw is?

Eddie Brown: To keep down the dust.

Richard Lorenz: What happens to the dust that is accumulated from the slurry caused by the water on the blade?

Eddie Brown: That goes into a drain that goes into a holding tank the water then drains from that holding tank into another holding tank. The sludge is hold in the first holding tank and disposed of in the proper manner. We either take it to a land fill or have a sewer company come out and pump it basically like a cistern.

Richard Lorenz: The particular dust that comes out, is it calcium carbonated?

Eddie Brown: Yes, it is harmless, we have done some research on it.

Richard Lorenz: It can be used for farmers/agricultural purposes?

Eddie Brown: Yes, lime dust.

Richard Lorenz: The basin that has been suggested here is one that is recommended by IDEM for holding the sediment that arises from the dust?

Eddie Brown: Yes

Richard Lorenz: Will all of the milling activities be inside of the building?

Eddie Brown: All of the fabricating of the stone, yes.

Richard Lorenz: Would there be doors and closures on the particular building that would be closed at the time of operation or open?

Eddie Brown: Majority of the time closed. We will have it open to bring the stone in.

Richard Lorenz: How many trucks or other kinds of vehicles will come to the property to deliver or receive stone?

Eddie Brown: We are looking at two trucks a week. No more than three.

Richard Lorenz: The access road to this property is what?

Eddie Brown: It is not even a eighth of a mile off of 67. and it is blacktop.

Richard Lorenz: The traffic of two trucks per week going and coming from. Should that cause any damage to the surface of the road?

Eddie Brown: No

Richard Lorenz: What kind of structures do your neighbors have?

Eddie Brown: Mr. Lane has a house which is directly across the road from the building. Hessit is the next door neighbor I believe and they are an Industrial Factory. I am not sure what the families name is that are behind it and beside it. They have a residence and a garage.

Richard Lorenz: What is the garage used to do?

Eddie Brown: Small engine repair.

Richard Lorenz: Will all your activities in your company be contained in the building?

Eddie Brown: Yes, Besides the limestone that is not cut. All of the cutting will be inside the building.

Richard Lorenz: Will there be any storage of any chemicals or other materials outside of the building for any prolonged period of time?

Eddie Brown:

Richard Lorenz: The condition of the property, is it readily useful right now?

Eddie Brown: We have to do electrical work to it. Besides that cleaning the floor, there was a chemical spill there. Besides that it is ready to be used.

Richard Lorenz: Are there any storage drums or hazardous material containers there?

Eddie Brown: There is inside the building, as soon as we get everything going the mess will be cleaned and we will get a truck to come and get it.

Richard Lorenz: Will you under take that project?

Eddie Brown: Yes

Richard Lorenz: With regards to any spills or contaminates that are on the floor a the present time, what do you understand to be the situation there?

Eddie Brown: I have received an MSDS on the chemicals that were spilt on the floor. They are not hazardous according to the paper work. We did fax that to the fire department, and in returned faxed it the HAZMAT and we are waiting on a reply from HAZMAT to be able to clean it up. According to the papers that we have received on it, it is a simple process of putting cat liter or floor absorb and cleaning it up with a shovel. Then putting it in sealed containers and shipping it to a land fill. It is all land fill friendly.

Richard Lorenz: Once that is done, will the fire department be asked to come out to confirm that the area has been cleaned.

Eddie Brown: Yes

Richard Lorenz: All those activities would precede any activities of your intensions?

Eddie Brown: Yes

Richard Lorenz: Are there any other clean up or other modifications that are required?

Eddie Brown: Bush hog where the grass has grown up. Just things like that.

Richard Lorenz: Do you know how long this property has laid dormant from activity?

Eddie Brown: Calendar inside says September 2006. As far as we know that the last time the building was used.

Richard Lorenz: And you are asking the Board to rezone this from Residential to Industrial use?

Eddie Brown: Yes

Richard Lorenz: That will be consistent with the adjacent land owner use?

Eddie Brown: Yes

Richard Lorenz: As far as you are reporting to the Board, All of the concerns about dust pollutions will be contained in the building and by the water use on the blade?

Eddie Brown: It is a building, and to be honest some dust is going to come out of it. But there is also natural barrier with the trees between all the houses.

Richard Lorenz: What is the closest Residential structure to you?

Eddie Brown: The house directly behind.

Richard Lorenz: How far is that from the operations?

Eddie Brown: At the minimum Three of four hundred feet. About a football field length

Richard Lorenz: How many employees will you be using?

Eddie Brown: We have five full time employees plus us three.

Richard Lorenz: What will you hours of operation be?

Eddie Brown: From 7:00 or 8:00 in the morning to 3:00 or 4:00 in the afternoon.

Richard Lorenz: What days of the week would you operate?

Eddie Brown: Monday thru Friday, If we have over time possible half day on Saturday.

Richard Lorenz: Nothing after the 5:00 o'clock hour?

Eddie Brown: No

Richard Lorenz: You would agree to those terms to this matter?

Eddie Brown: The reason I have a problem saying yes to that is that because we start a second shift then it would be an 11:00 o'clock dead line. But at this point and time I don't see that happening this year but a year down the road no later than 7:00. I can respect the landowners around there.

Richard Lorenz: Five days a week no later than 7:00 P.M. and possible some over time on Saturdays if the orders require that.

Eddie Brown: Yes

Richard Lorenz: Would this product be used mostly in Owen County or in surrounding Counties?

Eddie Brown: We go all the way from Illinois to Michigan, Indianapolis, Terre Haute, Bloomington. Basically when a contractor calls I need limestone.

Richard Lorenz: What is the product used for?

Eddie Brown: House's, Building's, Residential and Commercial.

Richard Lorenz: What is the sizes of stone that you will be cutting?

Eddie Brown: They come in slab form anywhere from two and a quarter inches thick to a foot thick four foot wide to the longest of ten foot long.

Richard Lorenz: Again there is no product available on the site, It is brought and then taken away?

Eddie Brown: It is bought off the site.

Richard Lorenz: I didn't have any more questions at this time.

Anton Neff: I have a question for Mr. Lorenz, If the property is going to be subjected to a Heavy Industrial development standards, Then the standards that are in the Ordinance apply at that particular point?

Richard Lorenz: That is right.

Anton Neff: There is a lot of adjacent landowners here so I am going to address this now. When it comes to noise, air pollution some of those big things, Can we require that a buffer of trees or certain things be done to make this contingent on proper buffering for Residences.

Richard Lorenz: You can require buffer's of either space, or trees, or other structures. For example if this is and inside structure activity then that is part of the buffering process. I think you said you have a operation in Ellettsville is that correct.

Eddie Brown: Yes

Richard Lorenz: You have a report from IDEM?

Eddie Brown: Yes, This was done in last month on the 14th. We had no violations.

Richard Lorenz: For the record, this is apparently a notice of inspection by Indiana Department of Environmental Management conducted on 9/18/07 for this particular enterprise showing that no violations and signed off on the appropriate dates.

Eddie Brown: This particular IDEM report is for the air pollution with the quality of the air from the stone dust.

Richard Lorenz: In this matter I would suggest that the County require at least some outside perimeters for the hours of operation if they are indicating that can live with a situation of a 7:00 to 7:00 for example five and a half day work week. That would be part of the regulations. I would also recommend the situation that if this particular enterprise were to abandoned the operation there by abandonment of tenancy or ownership either one it would make the rezoning applicable only to them and the next enterprise would come along would have to apply again because there are so many variances on Industrial use that it would be to broad to allow it stand with out reviewing the next tenant or owner operations. As long as they are the owners they would be permitted to continue on in their on faith.

Anton Neff: How long has the owner of the property owned this section of land?

Richard Lorenz: Your tenancy prescribe right now is a one year or two year affair.

Eddie Brown: As of right now, we plan on renting/leasing the property for until January 2009 and then purchasing it.

Richard Lorenz: Then you would have the option the purchase it at that time?

Eddie Brown: Yes at that time.

Anton Neff: the current owner has owned it for how long?

Richard Lorenz: In your materials the deed it is, this shows January 11, 2006 Skids Recycling Inc.

Anton Neff: It has just been residential since the Zoning of Planning Ordinance entered into the record.

Richard Lorenz: Yes, there seems to be some kind of inconsistency because the Assessor's record shows Commercial on it but the map drawing and coloring is to the contrary Residential.

Anton Neff: And that takes president over.

Richard Lorenz: It does at the present time. We need to work on those projects.

Gwen Dieter: Is this type of business inspected regularly by IDEM?

Eddie Brown: IDEM, OSHA they can come at any point and time.

Gwen Dieter: You were talking about limiting hours once this is approved, can we?

Richard Lorenz: Yes, the actual in fact I have prepared a proposed one that would have the proposed hours of operation indicated and the number of days per week.

Dwen Dieter: You are going to be using this wet saw I am assuming that takes a lot of water. Where are you getting the water?

Eddie Brown: The tubs that I was talking about that the water drains into when it drains to the second tub it recycles and goes back to the saw and drains right back into the first tub. Once every six months we have to drain the water and clean the tank and fill it back up.

Gwen Dieter: How much does that tank hold?

Edward Eggers: One is 425 gallons and the other is 250 gallons.

Richard Lorenz: The average house hold in Owen County is using between four and five thousands gallons per month. This particular saw I have work with Mansfield stone out of Brazil Indiana and they have wet saw up there. They use the water to cool the saw and prevent friction the dust then falls onto the floor and into a slurry then runs into the basin.

Benton Pittman: I don't know what you might compare it to, but how noisy is this? A normal person would be able to hear this operation what sort of a distance do you think? I'm trying to decide if I was a next door neighbor am I going to hear it inside the house?

Eddie Brown: To be honest I have never been inside of a house next to a mill so I do not want to say no and then there will be some noise. With any factory there is going to be some noise the saw blade turning is going to make noise but no more than Hessit Brick plant.

Benton Pittman: Lets compare you operation to Hessit's, Is your operation going to be more or less noise?

Eddie Brown: We are not nearly as large, and they have a lot of outside machine that make noise. We are getting a plainer when we put that in it plains the stone or a form onto the stone and that does make some noise. But the decibals are low 31 I do not believe it would be an intolerable noise for the operating hours that we have. Where we are at right now, there are homes around us and we never had a complaint on the noise. We have talked with the Monroe County Planning and Zoning and they have not came up with any complaint of noise.

Gwen Dieter: Have you never received any kind of complaints at all?

Eddie Brown: One neighbors has complained on us, it's a long story.

Edward Eggers: Before we even started with this mill he had problems.

Eddie Brown: This was my residence before the mill. My dog bark in the afternoon, then it was my dog chasing their cat.

Gwen Dieter: Nothing to do with the business?

Eddie Brown: No, IDEM did come out because there was a question about the quality of the air because there is lime stone dust, and we passed

Gwen Dieter: Did someone call IDEM is that why they came out?

Eddie Brown: The gentleman next door is on oxygen and they were curious about lime stone dust with the oxygen.

Benton Pittman: Are you going to store any stone outside? Either finished or going into the mill.

Eddie Brown: There will be finished outside of the building. There is a concrete slab in the back where the finished stone will be. And then there will be some slabs that we sit outside.

Benton Pittman: Will that be out of sight to the County Road?

Eddie Brown: No

Benton Pittman: Will that be out of sight of basically the surrounding residence?

Eddie Brown: Mr. Lees house sits behind some trees. The only house that would probably see it would be the one behind us which would be the Livingston's.

Richard Lorenz: How long will the finished product accumulate before it is moved to it's job sites?

Eddie Brown: We try to send it out as soon as we get it. We have a Semi truck that holds sixteen pallets it could take two to three days or sometimes could sit there a month it depend on when they want it when it is finished.

Anton Neff: Opens the floor to the public

Anthony Livingston: I have a business at my home, I do service and repair on out door power equipment so I am not unsympathetic to this cause. My concern is actually two fold and Mr. Lorenz has mediated some of those concerns. My house is 45 yards from the property line, you can not deny that a operation of the magnitude is going to create dust. There will be truck traffic maybe not a lot, In addition to the dust from the business it I am concern with the stone parking lot we all know what happen when you get a lot of traffic on a stone parking lot. Am I going to see dust off of the parking lot? Are they Prepared to pave the parking lot? Also how can it go from on end of Planning and Zoning to the other end as to Residential to Heavy Industry? There is a lot of area between the two. What kind of noise and dust prevention can take.

Benton Pittman: How far we are talking 135 feet from the property line how far is it to the building?

Anthony Livingston: That is from the property line to my house. From my house to their building is probably another 20 feet 25 feet maybe.

Benton Pittman: So we are talking about 150 feet from their building to your house.

Anthony Livingston: That would be accurate, yes. We have two children both of them suffer from respiratory illness it is not serious the Doctor says it is just a mild asthma but they are very sensitive to air borne particulates such as dust, pollen, smoke, ashes. I want them to be able to go out and play I don't want to keep the windows shut in my house.

Anton Neff: So distance to the property is your concern, and with that a host of things dust, noise what ever and one comment I have to make on the zoning question you posed. Don't think of the different zoning classes as relative to each other like one is bigger then the other and so on. Each one is unique, and what ever description fits any one parcel of the County is on a per case basis. So even you mentioned why go all the way well that is the class that is would go under. It would not apply with the others anyway, It is not a matter of skipping over several levels.

Anthony Livingston: The very first paragraph in the introduction I quote from it "Heavy industrial uses should located away from residential commercial uses. That pretty much says it all.

Anton Neff: In a way with this we have an odd situation because the property has been there.

Richard Lorenz: Its prior use has been industrial. Actually when it was taken in it was supposed to be taken in at the use it had at that time. It should have been classified as Industrial at that time.

Charles Lane: That property sits on quick sand and any noise will be vibrated 3 times then normal ground. The load limit on that road is 8 ton. The driveway they put in is over quick sand. Anything there will be noisy.

Wiley Truesdel: I am not aware of a load limit on that road.

Audience member: There is

Wiley Truesdel: It is posted all the time, is that because of the bridge on down.

Eddie Brown: I have never seen the sign but if it is because of the culvert then our driveway is before that.

Richard Lorenz: So your truck traffic would it have to cross that culvert?

Eddie Brown: No

Richard Lorenz: Will your loads you take out of there be over 8 ton?

Eddie Brown: It would be over 8 tons but then again it would not be going over that culvert.

Richard Lorenz: What do you know about the road being on quick sand?

Eddie Brown: I don't.

Richard Lorenz: Are there any visible evidence of any peculations or anything like that?

Eddie Brown: The only thing I see is where that culvert washes gravel out.

Richard Lorenz: In Ellettsville how close are you to any residence?

Eddie Brown: There is a house about 30 feet behind the building.

Richard Lorenz: Have you had any complaints about dust or contaminants?

Eddie Brown: Not of dust and contaminants, just dust in general.

Richard Lorenz: Are there other structures beyond the 30 feet?

Eddie Brown: Yes there is a car lot just below the hill.

Richard Lorenz: Car lot, we are talking about cars that are out there for retail sale?

Eddie Brown: Yes

Richard Lorenz: Those cars would show the effect of the accumulated dust every day if that was a problem?

Eddie Brown: Yes, and they have no problem with limestone dust settling on their cars.

Ricahrd Lorenz: Do you think between, his comments have been about the dust from the milling operations vs. the dust from the gravel roads. Which of those is the most difficult to deal with?

Edward Eggers: I live a couple miles down the road on Straight line road its gravel, my daughter has asthma, There is not near the dust as the car going down the road.

Ted Cline: Lane Road is a one lane road period, I don't care if you are driving a tractor or a truck, it is a one lane road. If you meet a semi or a dump truck somebody has got to move. On that road some places are hard. Also they said that they were denied an upgrade on their zoning in Ellettsville, why?

Eddie Brown: Because I live on the property. My residence is on the property.

Anton Neff: Do you have any other properties that you have looked at or reviewed?

Eddie Brown: We have been looking, but with the way this building is set up there is nothing to compare to it.

Richard Lorenz: What previously had been there could continue without any involvement with the planning commission what so ever. What this is, is some sort of clean up to what they already had there. To some extent this is an upgrade to those conditions.

Sherry Cline: Is the semi traffic going to destroy the turn off on to Lanes road due to the chip and seal?

Bob Price: If their noise is any thing like Hessitt's I can hear Hessitt's at five in the morning.

Anton Neff: The principle concern I am hearing is nosie.

Richard Lorenz: The only thing that the Board can do on those kind of issues principally have to do with hours of operations.

Wiley Truesdel: If the load limit is by ordinance I don't know how we can act upon it. We will not be able to haul more than eight ton down that road until that is lifted or changed some way.

Eddie Brown: Could we get a drive in off the Highway. I do not know what is all involved with that.

Wiley Truesdel: The State is a lot of it.

Regina Gephart: Motions to recommend to send them to the commissioners with the suggestions from Mr. Lorenz to rezone.

Dwight Dunigan: Seconds the motion.

Passes: 5-0-2 with Wiley Truesdel and Gwen Dieter abstaining
(Issue begins at 020 on tape)

Open Microphone

David and Connie Robertson come before the Board and inform them of what their intension are on their property. They are building a home on commercial land. They need for the land to be rezoned as residential from commercial. They are also asking that the fees be waived.

Wiley Truesdel: You do have a building permit?

Connie Roberts: Yes

Wiley Truesdel: D.J. what was the reason for giving them a building permit you did not check that.

D.J. Bault: I had a Septic permit and normally that is what it takes. I did not think of checking the zoning on this property.

Wiley Truesdel: It could have been stopped then before it got to this visit.

Benton Pittman: Makes motion later resends his motion due to the fact no application has been filed and no adjacent land owners have been notified.

Wiley Truesdel: Do we have to sent up a special meeting. I mean it has to go in front of the Commissioners right.

Richard Lorenz: It is being turned down right now, what I want to recommend, If you could get your four adjacent landowners to write in writing their signatures that they have no objections to the rezoning when it comes to the Commissioners, they can take that into account and determine that the sure fall and the procedures here have been officiated by the written documents.

Gib Tucker: Makes a motion subject to proper procedure with the Commissioners and assuming the letters from the adjacent landowners are favorable and the rezone goes further that the fee is waived.

Wiley Truesdel: Seconds the motion.

Passes: 7-0
(issue begins at 869 on tape)

Gwen Dieter had questions for Mr. Lorenz on his representing the applicant or representing the Board. Richard Explains that he is there for the County and not for the applicant at this point in time he is helping the County by asking the appropriate questions that need to be answered by the applicant he is not paid by the applicant.

Regina Gephart had concerns that the Roberts where informed to asked for the waiver of filling fees on their rezone. She thinks that the applicant should not be lead to ask for this. The Board agrees to this and is recommended that this not be done. The reason is that if each of the issue get the fee waived then there would be no funds for the Planning and zoning.

Next Meeting to be on November 1st, 2007

Adjourning

Regina Gephart: Motions to Adjourn

Gib Tucker: Seconds the Motion

Passes: 7-0

Next meeting is scheduled for November 1st, 2007

Minutes approved this _____ day of _____, 2007
Minutes prepared by Daniel J. (D.J.) Bault, Plan Commission Administrator

_____,
Edward Raymer, President

_____,
Anton Neff, Vice President

_____,
Benton Pittman

_____,
Gwen Dieter

_____,
Regina Gephart

_____,
Wiley Truesdel

_____,
Mark Evans

_____,
Gilmer Tucker

_____,
Dwight Dunigan