

## **NEW WHITELAND PLAN COMMISSION**

**OCTOBER 26, 2021**

7:00 pm

### **PUBLIC HEARING**

President, Matt Gillock, began the October meeting at 7:00 p.m. Members present were Matt Gillock, Jeff Weaver, John Perrin, Angela DeVoss and Duane McCauslin. Attorney, Lee Robbins was in attendance as well as Zoning Administrator, Tim Guyer.

#### **MINUTES:**

Jeff Weaver motioned to accept the minutes from the previous meeting which was November 17, 2020. John Perrin seconded the motion. Vote was 5 affirmative.

#### **ADMINISTRATOR'S REPORT:**

The members had several months of Administrator Reports since meeting last November 2020. The majority of building permits were for single-dwelling new houses in Grassy Manor.

#### **ELECTION OF OFFICERS:**

##### **PRESIDENT:**

John Perrin nominated Matt Gillock for President of the Plan Commission. Angela DeVoss seconded the motion. Vote was 5 affirmative.

##### **VICE PRESIDENT:**

John Perrin nominated Duane McCauslin for Vice President. Jeff Weaver seconded the motion. Vote was 5 affirmative.

#### **OLD BUSINESS:**

##### **SECTION 2 OF GRASSY MANOR**

Chairman, Matt Gillock, states that there is a mistake on the agenda. It should say Grassy Manor not Brownstone subdivision. Matt states that he has accepted the sanitary sewers, storm sewers, curbs and streets in Section 2 of Grassy Manor subdivision.

#### **NEW BUSINESS:**

##### **REZONING PETITION FOR 340 TRACY ROAD**

##### **SR MAHI INC.**

Chairman, Matt Gillock, opened the Public Hearing at 7:02 pm. Attorney, Eric Prime with Van Valer Law firm is representing SR Mahi Inc. tonight. His client owns the building at 340 Tracy Road that used to be a doctor's office. Eric Prime presented a Rezoning Petition for 340 Tracy Road to be rezoned from GB1 to GB2. It is currently vacant and they are having difficulty finding a tenant under the GB1 zoning. This would allow the property owner to market the property to a broader spectrum.

Eric Prime asked his client to go through The Town's Permitted Use Schedule and choose from the GB2 Permitted Uses and come up with a list of uses that he would not have on that property. Even though they're allowed in GB2, his client would agree that those uses should not be permitted. Eric Prime listed several uses. Mr. Prime continued that these type of changes can give Plan Commission's heart burn because now there is a list of things that are permitted. Mr. Prime understands that there is a fear of the unknown from the community as well.

**REZONING PETITION FOR 340 TRACY ROAD**

**SR MAHI INC. (continued)**

Attorney, Eric Prime states that these would be written commitments and would run with the land.

John Perrin states that in his mind, it's difficult to justify making a change when there are so many permitted uses and you are willing to give us a list of what will or will not go in. I can't make a decision based on what you are going to tell us in the future. What's left on the list? John also states that traffic on Tracy Road is sitting for 15 minutes sometimes right there at 340 Tracy Road. He can't imagine adding more traffic for a more intense zoning.

Angela DeVoss asked if someone else purchases the property in the future, how does that work? Eric Prime stated that the written commitments would be recorded documents and would be for the next property owner. The recorded documents would show up if there was a title change.

Matt Gillock asked if there was someone or something in mind for this location? Mr. Prime replied there has been interest from a Day Care and someone wanting to use it for an Administrative office.

Matt Gillock opened the floor to the audience.

Dee Appleton 103 Sawmill Road states that it would be more beneficial to have the building occupied than to have it vacant. Dee Appleton asked what is a GB1 business?

Attorney, Lee Robbins gave a general description of both zonings.

General Business One (GB1). The General Business One district is created to provide for local or neighborhood business uses that will be compatible with adjoining residential areas. The GB1 District is designed to provide for commercial, office, public and semi-public structures which are to be typically much less commercial in appearance and architecturally more harmonious with residential structures. This district can serve as a buffer between residential areas and general business districts where a gradual transition from existing residential use to general business use is occurring or should occur.

General Business Two District (GB2). The General Business Two District is designed to permit the development of a complete range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential community. In general, to achieve maximum flexibility of permitted land use, the GB2 District makes possible a highly varied grouping of retail and business functions.

Dan Bawinkle states that he bought his house on Eastlawn about a year and a half ago. He likes the GB1 zoning. He appreciates the building and it always looked good. But now to make it a rental company, this area is not a downtown business district. Maybe there is another reason it's not getting leased. There are a lot of dentist offices that would love that building. Mr. Bawinkle states that zone 1 is just fine. GB1 zoning goes along with the people who live in the neighborhood.

A woman who did not identify herself states that she also resides on Eastlawn. And that building looked really good until recently and has become a real eyesore in the past few months. She states that she is

**REZONING PETITION FOR 340 TRACY ROAD**

**SR MAHI INC. (continued)**

delighted to see the changes the community has made with the streets, taking out the medium. Now it is smeared with scarlet paint. Utility vehicles in the parking lot, weeds, can't see to get out of Warwick Road onto Tracy Road. If the property looks like that now, what is it going to look like in the future? GB2 zoning will cause more traffic. Tracy Road, right there at 340 Tracy Road is already congested. There are a lot of accidents on Tracy. That is basically New Whiteland's thoroughfare.

Emily Gibson does not live in town but her soon to be Grandmother does. Her soon to be Grandmother lives across the street from this property. Emily Gibson states, if those people are showing interest now then what's the need to have it rezoned? Because the stuff that is in the parking lot now is more industrial. If a Day Care is interested, lease the building to them. Emily Gibson sees no need to rezone and it sounds contradicting. She believes it will affect her Grandmother's property because 340 Tracy Road is unkept and she has to look at it.

Chairman, Matt Gillock, states that after listening to the last few comments, it sounds like the upkeep of the way it is now, is the main thing that people are really concerned about.

Diane Maze resides at 319 Tracy Road and is concerned about traffic.

Dennis Combs resides at 1006 Warwick Road. Mr. Combs states that he and his wife have lived there for 31 years. The doctor who previously owned this property was a great neighbor. Dennis continued that GB1 zoning is intended to be a buffer between residential and GB2. There is nothing positive to change it to GB2 zoning. Mr. Combs states that at 10:00 pm and as late as 1:00 am, there is traffic on this property. Their bedroom is on that end of the house, which is right next to this property. If the Town expands the zoning class, what will the future bring?

Laura Combs resides at 1006 Warwick Road. Mrs. Combs states that the property owner has leased the property to Johnson Equipment, owner Trevor Sims. Mr. Babar, the property owner, leased it to Johnson Equipment at the end of July, just after he purchased the property. On BEACON, records show that Mr. Babar is the new owner as of November 2020. And since then the property has went downhill. The grass doesn't get mowed, the property owner is lacking in respect on keeping the property kept up. Mrs. Combs states they have already had a taste of this nightly activity until 1:00 a.m. The bright lights from trucks shine through their window blinds. Laura Combs states that 340 Tracy Road has become a nuisance property. She welcomes new businesses just not the totally wrong type of business. What has been going on recently has interrupted the tranquility they've had for thirty-one years. There is a sense of dishonesty with the new owner. There have been small children coming and going at 10:00 p.m.

Angela DeVoss states that she has taken pictures of this property in recent days. And the pictures submitted to the Plan Commission tonight are not the same as the pictures taken during the past two months. Angela DeVoss states that there are forty-four (44) permitted uses in GB1 zoning.

Joe McMahon has resided at 136 Brentwood Lane for 35 years. He has seen a lot of businesses in that building and it's been taken care of a lot better than it's being taken care of now. If they're not willing to take care of the property now, while it's empty and they are trying to lease it, then they're not giving us

**REZONING PETITION FOR 340 TRACY ROAD**

**SR MAHI INC. (continued)**

any earnest by leaving the building 1/2 painted red, paint on the brick, overgrown grass and trash everywhere. They're not doing it right. He doesn't want to see the building sit vacant either.

Mr. McMahon's second issue is that no one is saying what is going to be there, just that they will take out some permitted uses in GB2. Mr. McMahon states that this rezoning would leave too many loop holes. Mr. McMahon states that what Lee Robbins said about GB1 being a buffer zone makes sense. We're the people of this town and the owner is not supportive of the community by not taking care of the property. McMahon asks, who is going to lease that building the way it looks? Who's going to rent that and say, we'll fix it up for you? If the rezoning is allowed, the Town is giving the property owner full firing power, sounds like there are too many loop holes. We are the people of this Town and we don't want the property zoning changed.

Eric Prime stated that his client wasn't aware of what was going on with the property. With the building sitting vacant, this is causing a cash flow for his client.

Patricia Smith resides at 1024 Warwick Road. She has lived there a long time and never had any problems with that property until now. Why is that area so difficult to lease? There was discussion that there must be another reason that the property isn't getting leased. Emily Gibson, who is Patricia Smith's soon to be granddaughter asks, if there is interest from a Day Care and an Administration office, why are you here asking for a rezoning? Those two uses are permitted in GB1. Lease to them. Emily Gibson asks why is that one little area so hard to lease when there have been other businesses in and around that property?

John Perrin states that the new owner came in and let someone rent it that he wasn't supposed to rent to. John states he has a problem with that. If you're going to own property and you're going to rent it out then you need to do your due diligence and homework and find out what's going to be in there. Because that's part of the problem that's over there right now. It's been left a mess because, according to the folks who live around there, it's still going on.

John Perrin continued "I counted up everything you had in your exhibits. There are 68 GB2 Permitted Uses that you are willing to do away with. If you can do away with that many, you can stay GB1." The audience applauded.

Chairman, Matt Gillock, states that he agrees with Dennis Combs as far as GB1 is designed to be a buffer zone and it should stay that way. Matt states that changing the zoning isn't going to make a difference as far as the property being an eyesore. Everyone is repeating the same thing about how it looks and it's not getting taken care of. There are current issues that need to be taken care of from another avenue.

Angela DeVoss asked if the lease was terminated, who is coming and going from the property?

Laura Combs who resides at 1006 Warwick Road states, the exact same people and the exact same vehicles that have been coming and going for the past few months. GB1 is the appropriate zoning for

**REZONING PETITION FOR 340 TRACY ROAD**

**SR MAHI INC. (continued)**

that property. Laura Combs continued that 340 Tracy Road is an awesome spot. There have been so many businesses there. It is a desirable location.

Teresa Paris resides at 139 Northlane. Mrs. Paris states that if there are forty-four (44) eligible businesses and so many ways to advertise, put a business there that is permitted in GB1 zoning.

Chairman, Matt Gillock, closed the Public Hearing at 7:57 pm. Matt asked the Plan Commission members if anyone had anything they wanted to say.

Lee Robbins states to the board that they are taxed with the responsibility of holding a Public Hearing so members of the community have the opportunity to speak with you. And you have done that. The members are on this committee because of their willingness to consider the petition and make a recommendation on land use. Any decision they make will take the form of a recommendation to the Town Council. Anytime property is rezoned that is a legislative function and done by way of an adoption of an ordinance. By a majority vote, you are to send a recommendation to the Town Council. Lee states they may send a favorable recommendation, an unfavorable recommendation or no recommendation at all. Or if the board needs more time to think about it, they can continue the Public Hearing.

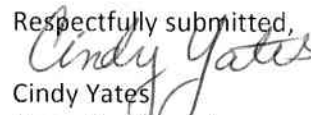
Matt Gillock states that he thinks everyone is in agreement. And with GB1 being a buffer zone between residential and GB2, that makes sense. If we change the zoning to be GB2, it goes against what the plan is.

Duane McCauslin mentions that #5, on the Detailed Statement of Reasons, submitted by Van Valer Law Firm, states "current use in the area and compliance with the comprehensive plan yield the most desirable use." Duane states that its current zoning is the most desirable. A residential house borders this property.

Matt Gillock asked the board if anyone wanted to make a motion. John Perrin motioned to send an unfavorable recommendation to the Town Council. Duane McCauslin seconded the motion. Vote was 5 affirmative. Lee Robbins states that he will have a resolution for Matt Gillock to sign and then the subject will be placed on the November 3<sup>rd</sup> agenda.

Meeting adjourned at 8:05 p.m.

  
Approved By:

Respectfully submitted,  
  
Cindy Yates  
Recording Secretary