ORDINANCE 2019-12

AN ORDINANCE OF THE TOWN OF CUMBERLAND
REZONING PROPERTY AT 7173 W US HWY 40 FROM B-2 TO I-2

WHEREAS, the Town Council of the Town of Cumberland, Indiana has adopted a Zoning Ordinance and Zoning Map for the Town that includes regulations for land use; and

WHEREAS, from time to time the zoning map is amended either by staff request or property owner request; and

WHEREAS, Ben Singh Bashel petitioned the Plan Commission to rezone ten acres at 7173 W US HWY 40 from B-2 to I-2; and

WHEREAS, on July 24, 2019, the Cumberland Plan Commission conducted a public hearing on the proposed amendments; and

WHEREAS, in considering this proposal, the Cumberland Plan Commission has had reasonable regard to the comprehensive plan, current conditions and the character of current structures and uses in each district, the most desirable use for with the land in each district is adapted, the conservation of property values throughout the jurisdiction, and responsible development and growth, and has certified the proposal with an unfavorable recommendation to the Cumberland Town Council; and

WHEREAS, the Cumberland Town Council has reviewed and considered the Plan Commission’s recommendation and has decided to adopt these amendments.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUMBERLAND, INDIANA AS FOLLOWS:

Section 1. The zoning map be amended to show the property attached as Exhibit A zoned I-2, Heavy Industrial.

Section 2. This ordinance shall be effective immediately upon its adoption.

This ordinance is hereby passed and adopted this _ day of __________, 2019.

TOWN COUNCIL OF CUMBERLAND, INDIANA

_________________________________________________________________
Joe Sieflker, President

_________________________________________________________________
Anna Pea, Vice President

_________________________________________________________________
Nicole Bell, Member

_________________________________________________________________
Aaron Cutshaw, Member

_________________________________________________________________
Brian Gritter, Member

ATTEST:
Erica Salmon, Clerk-Treasurer
MEMORANDUM

TO:        APRIL FISHER
            CUMBERLAND TOWN COUNCIL
FROM:  CUMBERLAND ADVISORY PLAN COMMISSION
DATE:   AUGUST 1, 2019
RE:      ZONING TEXT AMENDMENT CASE # ZA 19-02

The Cumberland Plan Commission certifies to you the following report on the Zoning Map Amendment (ZA 19-02) initiated by Town of Cumberland staff.

The petitioner requests to rezone 10 acres located at 7173 W US HWY 40 from B-2, Community Business to I-2, heavy industrial to allow a trucking company. The owner has four semi-trucks and trailers he wishes to store and repair on site.

The Plan Commission held a public hearing for the map amendment at their regular meeting on Wednesday, July 24, 2019. The Plan Commission’s recommendation to the Cumberland Town Council is unfavorable by a vote of 4 to 0. The report for the case and Plan Commission’s Findings of Fact are attached.

Cumberland Plan Commission
Town of Avon, Indiana

By:
Ted Brindle, President

Christine Owens, Secretary

CJO
Enclosures
FINDINGS OF FACT FOR A ZONING MAP AMENDMENT
ADVISORY PLAN COMMISSION
TOWN OF CUMBERLAND, INDIANA

CASE NUMBER: ZA 19-02
CASE NAME: 7173 W US HWY 40

1. THE AMENDMENT DOES NOT PAY REASONABLE REGARD TO THE INTENT OF THE COMPREHENSIVE PLAN BECAUSE THE PLAN CALLS FOR COMMERCIAL.

2. THE AMENDMENT DOES NOT PAY REASONABLE REGARD TO THE CHARACTER OF CURRENT STRUCTURES AND USES IN EACH DISTRICT BECAUSE THE SURROUNDING LAND USE IS RESIDENTIAL AND COMMERCIAL.

3. THE AMENDMENT DOES NOT PAY REASONABLE REGARD TO THE MOST DESIRABLE USE FOR WHICH THE LAND IN EACH DISTRICT IS ADAPTED BECAUSE THE SURROUNDING LAND USE IS RESIDENTIAL AND COMMERCIAL.

4. THE AMENDMENT DOES NOT PAY REASONABLE REGARD TO THE CONSERVATION OF PROPERTY VALUES THROUGHOUT THE JURISDICTION.

5. THE AMENDMENT DOES NOT PAY REASONABLE REGARD TO RESPONSIBLE DEVELOPMENT AND GROWTH BECAUSE THE TOWN HAS IDENTIFIED THIS AREA FOR RESIDENTIAL AND COMMERCIAL MIXED USE.

DECISION

It is therefore the decision of the Cumberland Advisory Plan Commission that zoning petition ZA 19-02 be sent to the Cumberland Town Council with an unfavorable recommendation.

ADOPTED THIS 1ST DAY OF AUGUST, 2019.

[Signature]
PRESIDENT

[Signature]
SECRETARY

THIS INSTRUMENT WAS PREPARED ON AUGUST 1, 2019 BY:

[Signature]
ASSISTANT TOWN MANAGER,
TOWN OF CUMBERLAND
Staff Report

DEPARTMENT OF PLANNING & DEVELOPMENT
Town of Cumberland, Indiana
11501 E. Washington St.
Cumberland, IN 46229

Case Number: ZA 19-02
Case Name: 7173 W US HWY 40
Report Date: July 19, 2019

GENERAL INFORMATION AND CASE DESCRIPTION

<table>
<thead>
<tr>
<th>Case Type: Rezone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant: Ben Singh Bashal</td>
</tr>
<tr>
<td>Owner: Dharni Trucking Inc.</td>
</tr>
<tr>
<td>Property Location: 7173 HWY 40</td>
</tr>
<tr>
<td>Adjacent Properties:</td>
</tr>
<tr>
<td>North: PUD-Residential</td>
</tr>
<tr>
<td>South: Trail &amp; undeveloped in County</td>
</tr>
<tr>
<td>East: Commercial/B-2</td>
</tr>
<tr>
<td>West: Commercial/B-2</td>
</tr>
<tr>
<td>Acreage: approximately 10 acres</td>
</tr>
<tr>
<td>Existing Use &amp; Zoning: B-2/landscape Company</td>
</tr>
<tr>
<td>Proposed Use: Trucking Company/I-2</td>
</tr>
<tr>
<td>Comprehensive Plan: Commercial, Residential, Institutional mixed use/town center</td>
</tr>
</tbody>
</table>

PROPERTY AND CASE HISTORY

| Previous Approvals: |
| Related Cases: |

STAFF COMMENTS

The property is located across from where Grants Corner is under construction and in between Shambles and Frady’s. It was previously used by a landscaping company. The petitioner wishes to store and repair semi-trucks and trailers on the site. Currently, the owner has four (4) semi-trucks and trailers. They would be stored outside if approved. This use requires an I-2 heavy industrial zoning classification.

Rezoning

In its consideration of a rezoning petition, the Town Council is instructed by the Zoning Ordinance to consider the following items. The Plan Commission should do the same. Staff's comments in regard to those criteria are as follows.

1. The Comprehensive Plan: Overall, the comprehensive plan calls for commercial and mixed use along US 40. Further, the plan promotes a walkable, trail oriented development pattern. The area around US 40 and CR 700 W is identified for a town center, which would include a mix of residential, commercial, and institutional uses. Industrial uses are shown primarily near I-70. A trucking company is inconsistent with the comprehensive plan.

2. The current structures and uses within each district: The most recent use of the property was a landscaping company. That use was grandfathered as the property was assigned the B-2 zoning when it was annexed. B-2 generally allows for community oriented commercial like
office, retail, and restaurants. The petitioner has requested I-2 zoning, which is the town’s heavy industrial zoning classification. I-2 allows uses like heavy equipment sales, outdoor storage, manufacturing, contractor’s yards, warehouses, and the like.

3. The most desirable use for which the land in each zoning district is adapted: This is area is prime for commercial and residential mixed use. The surrounding land uses are commercial and residential. This property abuts the trail and is large enough to accommodate a unique mixed residential and commercial project oriented to the trail and US 40. Staff believes the highest and best use for this property is commercial or mixed use.

4. The conservation of property values throughout the jurisdiction: I-2 zoning is much more intense than the B-2 commercial it is currently zoned for. This site is not appropriate for heavy industrial development. In fact, such development is likely to have negative effects on property value and impact the ability for other commercial and residential development nearby.

5. Responsible growth and development: The town has identified where it believes industrial development is most appropriate and it’s not on US 40. The existing curb cut and driveway are inadequate for semi-trucks. The property is not connected to town sanitary sewer.

STAFF RECOMMENDATION

The Plan Commission Staff recommends disapproval of ZA 19-02 for the following reasons:

☐ Inconsistent with the Comprehensive Plan’s goals, objectives and future land use map.

☐ Industrial zoning and uses in this area will have a negative impact on property values due to the intensity of the use and is not the highest and best use.

Submitted By:

Christine Owens
Assistant Town Manager
Town of Cumberland, IN
APPLICATION FOR
ZONING AMENDMENT

Applicant(s): Ravi Singh Basset
Telephone: 317-809-1818

Address: 5324 Elmwood Ave
Indianapolis, IN 46203

Owner(s): Dharvi Trucking inc
Telephone: 317-534-7070

Applicant’s Attorney
Name: None
Address: ______________________
Telephone: ____________________

Applicant’s Registered Land Surveyor/Engineer
Name: None
Address: ______________________
Telephone: ____________________

Property Location: 7173 W. US Hwy 40
Street Address: 7173 W. US Hwy 40, Cumberland, IN 46229

Section: _______ Township: _______ Range: _______ Parcel Number(s) _______

Existing Zoning Classification

A-1 Agricultural District
C-1 Conservation District
R-1 Residential District
R-2 Residential District
R-3 Residential District
R-4 Residential District
R-5 Residential District
R-6 Residential District
B-1 Business District
B-2 Business District
I-1 Industrial District
I-2 Industrial District
PUD Planned Unit Development

Existing Land Use: Landscaping Company
Proposed Zoning District: J-2

Proposed Land Use: Private Truck Repair Shop and Parking

Surrounding Land Use: North _____ South _____ East _____ West _____

Legal Description of the subdivision must be attached to the application. Attached

I (We) do hereby apply for approval of the zoning amendment of land in accordance with the provisions of the Comprehensive Plan and Zoning Ordinance of Cumberland, Indiana. I (We) am (are) the owner(s) of the real estate included in this application. The undersigned, having been duly sworn on oath states the above information is true and correct as (s)he is informed and believes.

I (We) also understand that the application fee does not include the fees associated with design review and/or construction management review. Fees for design review and/or construction management review are the direct responsibility of the applicant payable directly to the engineering firm(s) specified by the Town at rates set out by various agreements and/or ordinances of the town, for services, inspections, reports, and the like required by the Town.

05/21/2019

Harjinder Singh
Signature of Owner(s) or Agent

Signature of Owner(s) or Agent

STATE OF INDIANA

COUNTY OF HANCOCK

Subscribed and sworn to before me this 21st day of May, 2019

Ben Singh Baker
Notary Public: Printed Name

My Commission Expires: June 06, 2023
Residing in Maslen County

Zoning Amendment Application
REQUIREMENT FOR FILING ZONING AMENDMENT CHECKLIST

An application shall include the following items:

1. ✓ One (1) completed checklist, signed and dated. (Attach completed copy of this form with the application.) Mark all items N/A (Not Applicable) which do not apply to your project.

2. ✓ One (1) completed application form: typewritten, signed by the owner or an authorized agent of the subject property, notarized, and filed at least thirty (30) days prior to a scheduled Plan Commission meeting. If application is not complete, staff reserves the right to deny the request to be placed on the Agenda. Be sure to include the following:
   - Project name
   - Acres
   - Project address
   - Number of lots/parcels
   - Section, Township, Range
   - Nearest intersection
   - Key/Parcel number(s)
   - Current zoning classification
   - Existing land use
   - Previous planning/zoning approvals

3. ✓ If the applicant is not the owner, one (1) signed and notarized copy of the Letter Granting Authority for an Agent.

4. ✓ One (1) copy of the legal description of the property.

5. ___ One (1) copy of the Letter of Intent. This should include a brief description of the Project, all the circumstance, factors, and arguments that the petitioner offers in support of the proposed amendment, including an explanation of how the petition satisfies each of the standards set forth in Article 7, Section 00-15-153-07.4 of the Zoning Ordinance.

6. ___ Three (3) copies of the Site Plan, which includes the following information:
   - Aerial photograph, Hancock County property map, and/or concept plan of proposed development on the site.
   - Conceptual Plan

7. ___ Supporting Studies
   - Traffic Study
   - Wetland Mitigation Plan
   - Environmental studies
   - Environmental Impact Study
   - Letter of Intent from appropriate sanitary sewer utility

8. ___ Professional Seal of engineer/architect who prepared the site plan

9. ___ Adjacent property owner(s) list and completed sample notification letter (on your businesses letterhead or personal stationary).

Signature of Person Completing Application  

Date 5/21/2019
Town of Cumberland, Indiana  
Department of Planning & Development  

CONTACT INFORMATION  

The person indicated below will receive all correspondence between the Plan Commission Staff and the applicant. It shall be the responsibility of the contact person to provide copies of information to other interested parties.

Indicate the Contact Person to be notified in the event additional information is required, to schedule meetings, receive Plan Commission Staff Letters and Recommendations, and to received the Plan Commission’s Findings of Fact:

Please type or print legibly.  

Business Name: Dharnie Trucking Inc  
Contact Person: Ben Bashal  
Address: 5324 Edgewood Ave, Indianapolis, IN 46229  
Daytime Phone: 317.869.1818 Fax Number: 866.883.7972  
Email: benbashal@yahoo.com
LETTER GRANTING AUTHORITY FOR AN AGENT
ZONING AMENDMENT

I (we) do hereby grant authority to Ben Singh Bashal
(Name of Agent)

To seek Zoning Amendment approval from the Cumberland Plan Commission for the property
located at 7173 W. US Hwy 40, Junction Cumberland IN
(Property Address or parcel number(s))

I (we) am (are) the owner(s) of the real estate included in this application.

Date
05/29/2019

Signature of Owner(s) or Agent

Signature of Owner(s) or Agent

STATE OF INDIANA } 
COUNTY OF HANCOCK } SS:

Subscribed and sworn to before me this 21st day of May, 2019

Notary Public: Signature

GurinderPal Singh Nagra
Notary Public: Printed Name

My Commission Expires: 05/24/19
Residing in Marion County