

ORDINANCE NO. 2019-40

**AN ORDINANCE OF THE CITY OF HOBART, INDIANA
PROVIDING THAT THE ZONING ORDINANCE OF THE CITY OF HOBART,
LAKE COUNTY, INDIANA BE AMENDED BY CHANGING AN
ESTABLISHED R-2 ZONE TO A-1 ZONE CLASSIFICATION**

WHEREAS, THE HOBART CITY PLAN COMMISSION by a majority vote recommended that its **Petition No. 19-47** be adopted and that the Council rezone this property.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Hobart, Indiana:

SECTION 1. That, the City Zoning Ordinance No. 93-59 as amended and readopted as amended under Ordinance No. 2001-41 and entitled "Zoning Ordinance of the City of Hobart, Indiana", and particularly the zone maps which are made a part of said Ordinance No. 93-59, be and the same is hereby amended by making certain changes as follows:

By changing the following described real estate on the zone maps from its established zoning R-2 (Single Family Residential District) classification to A-1 (Agricultural District) zoning classification:

The East 901.99 feet of the South 375.65 feet of the Northwest Quarter of the Southeast Quarter and also all of that part of the Southwest Quarter of the Southeast Quarter of Section 35, Township 36 North, Range 8 West of the Second Principal Meridian lying North of the Northerly Right-Of-Way line of South Liverpool Road, excepting therefrom the West 620 feet thereof, all in the City of Hobart, Lake County, Indiana.

SECTION 2. The City Council now finds that the above zone change will not be injurious to the public health, safety, morals and general welfare of the community and the use or value of the area adjacent to the property included in this Ordinance will not be affected in a substantially adverse manner and the need for the change in zoning herein arises from a condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood. The Council further finds that the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property herein if this rezoning were not granted and this rezoning does not interfere substantially with the comprehensive plan.

SECTION 3. The Common Council of the City of Hobart finds the zone change will take effect upon the following conditions being fulfilled by the owner:

Dedication of Liverpool Road right of way.

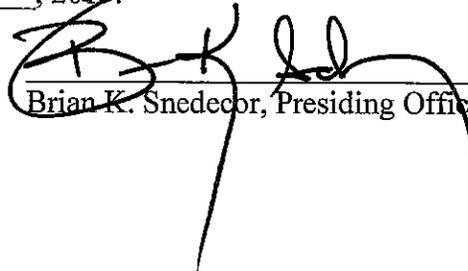
All buildings or uses permitted and placed upon said described real estate shall fully conform to all the provisions of the Zoning Ordinance of the City of Hobart, Indiana and shall have obtained the proper permits.

SECTION 4. That the City Engineer and/or Zoning Administrator is hereby authorized and directed upon the enactment and approval of this Ordinance, to cause a change to be made on the zone maps, to make certain notations in ink thereof and to record the date of passage of this Ordinance.

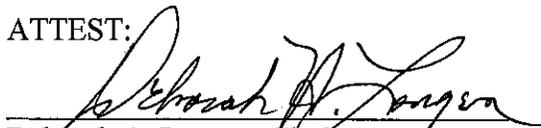
SECTION 5. Since an emergency exists for the immediate taking effect of this Ordinance, the same shall be in fully force and effect from and after its passage by the Common Council of the City of Hobart; upon the approval of the Mayor of the City of Hobart Indiana; and as soon thereafter as otherwise provided for by law.

PASSED and ADOPTED by the Common Council of the City of Hobart, Indiana on this

15th day of JANUARY, 2019.

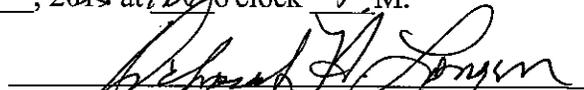

Brian K. Snedecor, Presiding Officer

ATTEST:


Deborah A. Longer, Clerk-Treasurer

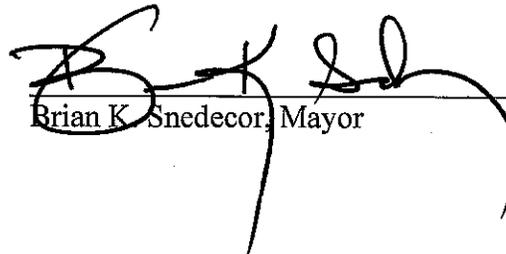
Presented by me to the Mayor of the City of Hobart, Indiana, for his approval and signature this

15th day of JANUARY, 2019 at 7:20 o'clock P.M.


Deborah A. Longer, Clerk-Treasurer

APPROVED and SIGNED by me, the Mayor of the City of Hobart, this 15th day of

JANUARY, 2019


Brian K. Snedecor, Mayor

ATTEST:


Deborah A. Longer, Clerk-Treasurer

**CERTIFICATION AND REPORT TO
COMMON COUNCIL OF THE CITY OF HOBART ON
ZONE MAP CHANGE**

CERTIFICATION TO: Common Council of the City of Hobart

FROM: Sergio Mendoza, City Planner

RE: Change to be made on the zone map.

DATE: December 6, 2019

PETITIONER: Erin Yanz
5200 Liverpool Road
Hobart, IN 46342

REQUEST: Change zone from R-2 (Single Family Residential District) classification to A-1 (Agricultural District)

PROPOSED USE: Continued use of a Philanthropic 501 (C) 3 Charity Animal Sanctuary & Learning Center per BZA 19-09

GENERAL LOCATION: Located approx. ½ mile southwest from the Liverpool Road & 49th Avenue intersection

LEGAL DESCRIPTION The East 901.99 feet of the South 375.65 feet of the Northwest Quarter of the Southeast Quarter and also all of that part of the Southwest Quarter of the Southeast Quarter of Section 35, Township 36 North, Range 8 West of the Second Principal Meridian lying North of the Northerly Right-Of-Way line of South Liverpool Road, excepting therefrom the West 620 feet thereof, all in the City of Hobart, Lake County, Indiana.

PLAN COMMISSION PETITION NO.: 19-47

DATE OF PLAN COMMISSION ACTION: December 5, 2019

DEADLINE FOR CITY COUNCIL ACTION: March 4, 2020

CERTIFICATION:

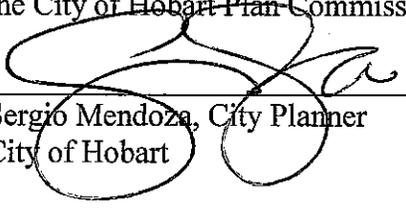
ACTION TAKEN BY PLAN COMMISSION:

Recommendation to the Common Council to **Approve** the change of zone requested (**Favorable** recommendation)

CONDITIONS: Dedication of Liverpool Road right of way

VOTE: 7-0

I certify that the foregoing information accurately represents the action taken on this matter by the City of Hobart Plan Commission.



Sergio Mendoza, City Planner
City of Hobart

BRIN'S FARM

PC 19-47

Findings of Fact

In the following space please provide the reason and concept of why you propose to amend the zoning map and provide justification. Consider the following in your response;

- (1) the comprehensive plan;
- (2) current conditions and the character of current structures and uses in each district;
- (3) the most desirable use for which the land in each district is adapted;
- (4) the conservation of property values throughout the jurisdiction; and
- (5) responsible development and growth.

SEE ACCOMPANYING NARRATIVE ANSWERS

The rezone should/should not be granted because; (Must meet all the following requirements.)

(a) the petition is not "spot zoning" which will confer a special benefit to the petitioner on a small tract of land with no commensurate benefit to the community.

(b) the comprehensive plan will not be disrupted or destroyed because:
SEE ACCOMPANYING NARRATIVE ANSWERS

(c) the land involved is suitable for the proposed land change because:

(d) the topography is suitable for the proposed land use without adverse effect upon the surrounding land because:

(e) the property value of adjacent property would not be decreased because:

[Signature]
Signature of Petitioner/Agent

11/12/19
Date

Decision:

After public hearing and review by the Hobart Advisory Plan Commission for the recommendation to rezone, the Plan Commission now finds that the Petition to Rezone Does or Does Not comply with the standards in the zoning ordinance.

All of which this 5th day of December, 20 19 by a majority vote of the Hobart Advisory Plan Commission.

CONTINGENT UPON DEDICATION OF
LIVERPOOL ROAD. RIGHT OF WAY
[Signature] Plan Commission President

Attest:
[Signature]
Plan Commission Secretary/Zoning Official

Erin's Farm NFP

5200 S. Liverpool Road
Hobart, Indiana 46342

Application for Zone Change

Findings of Fact

Erin's Farm NFP ("the Farm") is proposing to amend the zoning map to rezone parcels 2 and a portion of parcel 3 (approximately 20 acres) of the 33 acre tract on which Erin's Farm is located from Residential with a Use Variance (obtained in June 2019) to Agricultural zoning. The current Use Variance was obtained in order to allow Erin's Farm NFP, a non-profit 501(c)(3) charitable organization use the property to fulfill its mission as an animal sanctuary for abused, neglected and abandoned animals, and to educate the public about the need for the ethical treatment of animals as well as the preservation of the earth's resources.

Rezoning this area of the property to Agricultural zoning will allow the zoning of the property to more accurately reflect the current and historical use of the property. It will also reflect the use of neighboring properties, which farm and house many farm animals. The request for rezoning of this area of the property does not reflect any change in the intended use of the property as previously indicated when Erin's Farm NFP sought a Use Variance for the property. Rather, the request for rezoning is being made so that the non-profit can have the necessary flexibility to respond to the ongoing needs of housing and caring for an ever-changing group of animals. For example, when the rabbit population of the Farm swells in the Spring (due to unfortunate purchasing of "Easter bunnies" and their later abandonment), the Farm may find it needs to add a temporary additional small hutch to house these rabbits until they can be relocated to other sanctuaries. Similarly, when small housing structures need to be relocated on the property to respond to seasonal/weather concerns, agricultural zoning will allow for such responses without violations of the site plan or use variance.

1) The comprehensive plan

The rezoning of these acres would not adversely affect the comprehensive plan because this issue has already been evaluated when the Farm was granted a Use Variance. This property was, historically, a commercial establishment (a slaughterhouse and butcher shop). The building that now serves as a residence was the commercial shop. Large animals destined for slaughter were maintained on the property in the pastures. The presence of Erin's Farm NFP on this property brings the property closer to the intention of the comprehensive plan by having a benevolent, residence-on-the-premises, small farm on the property, much more reminiscent of a small family farm than a commercial establishment.

2) *Current conditions and the character of current structures and uses in each district*

The current conditions and character of the current structures are similar to those which would be found on any small family farm. The main building which had been a commercial establishment has been renovated and is now the home of the Executive Director of the Farm, Erin Yanz. Additional improvements to the exterior of this building are anticipated in the coming years. The Farm also has a horse barn, a pole barn, a chicken coop and rabbit housing. All of these buildings are scheduled for renovation which will improve their efficiency and appearance, as soon as funds can be raised. The current outbuildings (barn, pole barn, chicken coop, rabbit hutch) are used for their traditional farm purposes.

3) *The most desirable use for which the land in each district is adapted*

The rezoning of these acres will allow these acres to be put to their most desirable use, a use consistent with its neighbors and its history. The use of this property as residential single family property is unlikely unless there is subdivision of the property and considerable building and development done. At the present time, there does not appear to be a market for such development in this area. And in any event, such development would require considerable disruption to the area and neighbors for an extended period of time.

4) *The conservation of property values throughout the jurisdiction*

All of the improvements that Erin's Farm NFP is committed to making to this property will only add to the value of the property and that of the surrounding community. The business plan of the Farm calls for additional improvements in buildings, building facades, fencing, walkways and landscaping. When this property was purchased by its current owner several years ago, the prior owner left rubbish, rusting equipment, damaged and dangerous fencing and overgrown landscaping. Erin's Farm has been slowly making improvements and will continue to do so. It appears that the neighbors of the Farm are happy with the changes that have been made and with the use of the property as an animal sanctuary as several of the neighbors spoke in favor of the use variance at the public hearing in June 2019.

5) *Responsible development and growth*

When Erin's Farm NFP sought a use variance for this property in June 2019, the Farm submitted its business plan which explained its plan for the use of the property and its view of limited development/growth. The Farm has no plans to increase or expand its current minimal organic farming of hay. It is currently restricted (via the use variance) to visitation of no more than 30 guests at a time on the Farm and has no plans to expand this number.

The rezone should be granted because:

- (a) The petition is not "spot zoning" which will confer a special benefit to the petitioner on a small tract of land with no commensurate benefit to the community.

This petition for rezoning will only provide zoning that is in keeping with the history and approved current use of the property. Neighbors indicated (at the public hearing) that they

enjoy viewing the grazing horses in the pasture. The wider Hobart community benefits from Erin's Farm NFP because it provides a nature-related, family friendly, recreational/educational center used by families, youth groups and schools.

(b) The comprehensive plan will not be disrupted or destroyed because:

The comprehensive plan will not be disrupted or destroyed because the rezoning of this property does not meaningfully alter the current approved use of the property nor does it change the use of neighboring properties. Additionally, regardless of how this neighborhood is zoned, it has a distinctly "farm-like" quality to the area, with many properties housing farm animals and doing farming. The rezoning of Erin's Farm's acres will not change this but rather, will allow the zoning to reflect the reality of this community.

(c) The land involved is suitable for the proposed land change because:

The acres involved are suitable for being rezoned as agricultural lands as that is what they have historically been, it is what their current approved use is, and it is consistent with the use of neighboring properties. There is nothing about the property that is not suitable to use as a farm.

(d) The topography is suitable for the proposed land use without adverse effect upon the surrounding land because:

There is no water source on or near this property. There is no use of the property for organic farming and animal care that would adversely affect any neighbor. Because the acreage proposed for rezoning is a limited area on a 33 acre piece of property, its effect on any neighbors is even more limited.

(e) The property value of adjacent property would not be decreased because:

The rezoning of this property will not adversely affect adjacent property because the rezoning will not alter the use of the property in any meaningful way or in any way that would be apparent to any adjacent property or neighbor. The rezoning will only allow Erin's Farm to more efficiently and effectively make use of the farmland without unnecessary restriction.

MEMORANDUM

DATE: DECEMBER 6, 2019

TO: HOBART COMMON COUNCIL MEMBERS
MAYOR BRIAN K. SNEDECOR
CITY ATTORNEY ANTHONY DEBONIS

FROM: SERGIO MENDOZA, CITY PLANNER

RE: PETITION TO REZONE PROPERTY
PLAN COMMISSION PETITION 19-47



Attached please find a Certification and Proposed Ordinance for your consideration regarding Plan Commission Petition 19-26B, a petition request for a proposed rezone from R-2 to A-1 at 5200 Liverpool Road located approx. ½ mile southwest from the Liverpool Road & 49th Avenue intersection, zoned R-2, 20.5 acres.

DRAFT PUBLIC HEARING MINUTES FOR THE DECEMBER 5, 2019 MEETING OF THE PLAN COMMISSION: Erin Yanz requested to rezone a portion of the property to A-1 to allow flexibility for additional proposed buildings. Mr. Vinzant expressed his concerns regarding the rezoning of property to agricultural as the City has little control over the property and inquired as to what can be accomplished in an agricultural district that is not allowed in residential. Marilyn Reidy explained that an agricultural zone gives them the ability to quickly relocate or construct buildings and shelters, as needed, with the changing population of rescues. If continued residential, site plans are required. Mr. Pietrzak explained that during the discussion of the rezone it was noted, for example, that based on the way the property is parceled out it would limit the number, square footage and location of the accessory structures. Mr. Mendoza also explained that upon the proposed rezone it was discovered that a portion of Liverpool Road encroaches into the property and it was requested that portion be dedicated as public right of way. Ms. Galka opened and closed the public hearing for Petition 19-47 without public comments. Ms. Galka inquired whether the property was considered spot zoning and it was mentioned that although there was no continuous zoning there was agricultural zoned property within proximity. Mr. Gralik motioned for a Favorable Recommendation for Petition 19-47 contingent upon the dedication of right of way along Liverpool Road including all discussion and Findings of Fact, seconded by Mr. Lain. All ayes, motion carried. (7-0)