

**PLAINFIELD BOARD OF ZONING APPEALS**

**April 18, 2022**

**6:00 p.m.**

Mr. Monnett: I will now call to order the Board of Zoning Appeals meeting for April 18, 2022.

**ROLL CALL/DETERMINATION OF QUORUM**

Mr. Monnett: I'll now ask our Board Secretary for roll call/determination of a quorum.

Mr. Klinger:

Mr. Clay – here

Ms. Giesting – here (virtual)

Mr. Philip – here

Mr. Cavanaugh – here

Mr. Monnett - here

Everybody is present and accounted for.

**PLEDGE OF ALLEGIANCE**

Mr. Monnett: Would you all please rise for the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Mr. Monnett: I'll now entertain a motion for approval of our minutes from March 21, 2022.

Mr. Cavanaugh: So moved

Mr. Philip: Second

Mr. Monnett: Motion and a second, all in favor say aye.

(All ayes)

Mr. Monnett: I abstain because I wasn't here.

## **PUBLIC HEARING GUIDELINES**

Mr. Monnett: These Public Hearings are designed to allow public input regarding the subject matter. Please come to the front of the meeting room at the podium located in the very front. Give your name and address and make your presentation. Following your presentation, if you would please print your name and address on the Speaker Sheet that has been provided by our Board Secretary, this will ensure the official record reflects your appropriate name and mailing address.

## **OATH OF TESTIMONY**

Mr. Monnett: I will now ask of Town Attorney Mr. Daniel to administer the Oath of Testimony.

Mr. Daniel: Anyone expecting to testify tonight, please stand and raise your right hand.

(Mr. Daniel administers the Oath of Testimony)

Mr. Daniel: Thank you

## **PETITIONS FOR PUBLIC HEARING**

Mr. Monnett: Our first petition tonight is BZA-22-023. Mr. Jones?

Mr. Jones: Thank you and good evening. As stated, the first item is BZA-22-023 for TLAHCOS, Inc.; I believe they will be doing business as El Mexican Restaurant, that's what the two restaurants in the other communities (inaudible) are named. This is, as the agenda and the reports state, for a Special Exception to allow the sale and distribution of alcoholic beverages on site for consumption at a restaurant at 125 North Center Street. As you can see here it's located in the new town garage, like I said, at 125 North Center, immediately across the street from Town Hall. The actual restaurant will be in the northwest corner of the building that faces Center Street. Here's a photo looking south and east on the corner; it is in that facility, right there in that tenant space right there, of approximately 5,000-5,300 square feet. There is the alcove, or the porch that you can see in that photo. Just another view, the tenant space is all of the glassed area from the exit isle from the garage north to the north property line on that pathway on the north side of the garage building itself. This is – I added this because one, it

gives a better example – this is the restaurant, I believe it's in Connersville – the applicant is here, they can kind of explain that a little bit better. On the right, it gives you a little bit better idea of what the interior restaurant they want, but I mainly added it because they will be requesting outdoor seating and the (inaudible) rules of the ATC requires, Alcohol and Tobacco Commission requires a separation from the public way if you're distributing alcohol. And so, this will constitute that barrier; they will have to install that between those pillars on the overhang that you saw in the previous picture, and this meets that requirement. So, I wanted to make sure you realize that that will be a part of the project, it would eventually be, since it's on a town, it will be on the sidewalk, they will need to get that portion approved by the Town Council. Here you can see, this is the seating arrangement. I apologize, in the letter I said seating arrangements would follow and I didn't have it when that letter went out. So, as you can see, the total square footage based on 5,000 square feet, bar seating area: 46, the dining area: 154, and 18 seats in the patio area. The applicant has indicated that on Fridays they would like to have LIVE mariachi and salsa, with no dancing. With that, if you have any questions, myself or anyone on staff, we're available. The applicant is here this evening and can elaborate further. Thank you.

Mr. Monnett: Thank you Terry. If the applicant would like to come forward, please.

Mr. Maldonado: (inaudible)

Mr. Daniel: Yes

Mr. Monnett: Yes, and once you're done writing, if you could state your name and address in the microphone too also.

Mr. Maldonado: My name is Brandon Maldonado, and I am here to represent TLAHCOS, 125 North Center Street, Plainfield, Indiana 46168.

Mr. Monnett: What are your proposed hours?

Mr. Maldonado: The proposed hours are from like 10:00 a.m. to 9:00 p.m. Monday through Thursday, and then Friday, Saturday and Sunday to 11:00 p.m.

Mr. Monnett: I know you've mentioned the desire for outside seating, is there any kind of outside music, will it be piped into...?

Mr. Maldonado: It will be like a – what's it called – like sound outside.

Mr. Monnett: Speakers

Mr. Maldonado: Speakers – but I mean, it's not going to be too loud, it will be moderate. I'm sure with the cars moving you can barely hear it, probably.

Mr. Monnett: Thank you. Any questions?

(Brief pause)

Mr. Monnett: Mary?

Ms. Giesting: None from me.

Mr. Monnett: All right, thank you.

Mr. Maldonado: Thank you.

Mr. Monnett: If there's anyone in the audience who would like to speak for or against this petition you may come up.

(Brief pause)

Ms. Simler: My name is Linda Simler. I live at 134 North Center Street. For those of you familiar with the historic district downtown, that's the Ezra Cox House; it's the big blue house with the white pillars and wrought iron fence, nobody ever misses it. I am also here to represent our neighbor at 139 North Center Street. Again, that's an historic property in the historic district; it's the Snipes House. Mr. Ridgeway has a client on the west coast that he has to deal with a phone call at 6:30 p.m., that's only 3:30 p.m. their time, so unfortunately, he is unable to be here, but I have an email from him instructing me on the points he would like to have made, and I also have some photographs. I'd like to begin by saying, my family hopes to be the best possible neighbors to this restaurant and we define that as the following: we want to go there with our family and friends to eat, drink and listen to the music, and give it the absolute best word of mouth we can. We really want you to be successful, okay. That's the desire of our heart. However, there are some particulars in the establishment/the facility that we hoped would be addressed in advance, okay. So, with that in mind, there are two points on your motion, proposed motion, and I will be addressing things on 1 and 2. 1: The proposed use will not / will be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare. And point #2: The proposed use will not / will injure or adversely affect the adjacent area or property values therein. I have no interest in speaking to whether or not it's consistent with the town center. Again, we are historic property owners in the historic district and I'm here to represent families, children, and grandchildren, okay. I have some pictures that will help orient things, so I'm going to bring them up for the board to see now.

Mr. Monnett: Sure.

Ms. Simler: I think part of it will make it clear; the pictures that you see here show an angle north facing south on Center Street but do not show you the properties next to the parking garage, okay. (Steps away from microphone) This first picture here gives you an idea (inaudible)

how close the property next to it is. Their front porch is (inaudible) so again, we have children living here (inaudible). So, one of the things we're concerned about is noise abatement, and that speaks to the speakers (inaudible). So, I'm going to try and give you these because Mr. Ridgeway had (inaudible) his front porch (inaudible). And then in this photograph we have Mr. Ridgeway's property, the Snipes House, and also the house right next to it 131, which is the one directly adjacent to the parking garage. To make it the easiest as to why these pictures are needed in the first place, I'm going to address one of Mr. Ridgeway's primary concerns. This is a picture of people parking in front of his house, and in front of 131 across the street from us, which is happening continually now. Our hope, honestly, was that the rocker table would make some type of improvement. I can tell you that it does nothing to slow down SUVs and pickup trucks; it only bottoms out things that are low to the ground. This is not something that has an angle like when you're dropping someone off at the airport, if you're familiar with the departure area there, that rocker table is very successful. What we have witnessed is, if you're in a pickup or an SUV, you just ignore that it's there, all right. You can see, since people are already parking – and I think you should be quite familiar with the congested nature of traffic in that area between people northbound coming off of U.S. 40, people pulling out of the garage, people pulling out of what's directly across from Park Drive, now that alley. Mr. Ridgeway and Rita Florentino who runs the Gathering Place spoke to the Town Council last Monday about these very issues, but Mr. Ridgeway feels that the presence of a restaurant there will exacerbate what they consider to be the problems with late night traffic in their alley. For those of you not familiar with Rita's gathering together, it's a hospice, okay, so people bring their family members there to pass away, not in an institution, but in a place of quiet beauty. So, we're very concerned about trying to dampen traffic and noise in the area because of that, okay. What we saw though is that people see that little notch that's cut out now, just past the rocker table, as a place they can pull in and park when they're not parking in front of the parking garage. One of the things Mr. Ridgeway wants me to address is, how are people picking up to-go orders, DoorDash, Grubhub, etcetera, going to be routed. Because I see Uber food delivery people parking all over Center Street as it is, just to rush in and deliver something to a house. This is very dangerous here with the curve, and now the crossing and so on. And since they're already parking there when they're not supposed to – and I realize theoretically police can enforce that, but I'm going to tell you, as a person who lives there and not in a subdivision, there's no police car that can park there 24/7 to prevent accidents. And so, for us, this comes under point number one in the proposal of public safety. So, like I said, we don't know what the arrangement is for to-go orders but we're trying to get into the, can you pick it up on Vine – I cannot envision people saying, oh sure, I'll go up, park in the parking garage, come down the elevator, get my to-go order and go back up – that's not going to happen, they're going to look for someplace else. So, it's nothing against the restaurant, it is simply a detail that's difficult because of the situation in the area. In regard to – so, for me, that's a public safety issue, as well as convenience for people trying to get back and forth across the street. I do not think that there is going to be any danger to the moral standards of people who buy alcohol being served there, however we have lived with a bar close to us for a very long period of time. I have two points to make about the bar. Number one: at 2:30 in the morning we have people standing on

top of the parking garage urinating on to Center Street. This is something you guys are not privileged to see but we certainly are. We're presuming they're intoxicated, okay. We have seen people up there who are not urinating, but the point is this is a dangerous situation. So, while the restaurant will be serving alcohol, we don't see that as being a more particular danger, but it will increase the type of things that we are already seeing in that area because there's no attendant in the parking garage. The second thing, having lived through this with the bar, has to do with noise. Mr. Ridgeway's email says he presumes noise ordinances will be followed but he doesn't know if music will be allowed after 9:00 or 10:00 p.m., and what those ordinances are. So, he would like those spelled out for the public. I'm going to tell you that what happens with the bar with LIVE music is that it goes like this (sings softly, then loudly), that's when the door open, okay. So, when people say we have the LIVE music inside, it doesn't stay inside. Now, I've looked at the proposed plans for this building and there's a nice L-shaped airlock for the main entrance that I think will abate that significantly, even if people are holding both doors open. I do not see that type of arrangement for the patio, okay, and I am diametrically opposed to any speaker being placed on that patio, as you can see how close it is to the home next to it, all right. So, I think in that case you have to look at if there is too much noise outside the restaurant, that's going to, in point number two, adversely affect people in the area, not just with property values but with their quality of life, right. The fence that is proposed – and I have looked at the Connersville property and I understand it's required for the ATC, but this is not sufficient considering how close it is to the sidewalk there, and to the property next to it. Now, places like Sal's have a half wall with a partition above it; that would help with both noise abatement and privacy. So, I'm not trying to get additional expenses incurred for the restaurant, but I am trying to speak about a restaurant that is not located like their other buildings are, in a parking lot. You know, the one in Cambridge City, half of it's a Subway and the other half is their restaurant and their parking lot all the way around it. Ditto for Connersville; they're in by a Kroger. If you look here at Sal's or the Oasis, they have a big parking lot around it. This is not what happens next to the historic district, okay. So, we're looking for some type of accommodation or assurance in regard to the safety issues with patrons and buying alcohol. And I will say that people who drink are usually a little louder and more raucous than people who do not. I drink myself so you know, it's not a case of we are opposed to this, nor are we opposed to LIVE music but there has to be a way to protect the residents from having that constant roar in and out. So, I'm envisioning when people are going out to serve people on the patio, even if you don't have a speaker there, but a speaker would just be out of the question if you're trying to put your kid to sleep 24 feet away, okay. So, I hope I don't leave the impression that we're not interested in having a restaurant there; that's not the case at all. Rita Florentino and Mr. Ridgeway are both concerned about the amount of traffic that's in that alley between their two homes. I don't know what it's called; I do know it's directly across from Park Drive. So, is it also Park Drive? There's an awful lot of late night traffic there and I think part of their concern with the restaurant is the hours of operation. Again, is the patio going to be open for the entire hours of operation or could that be shut down earlier to provide more quiet? And we just don't know about the egress from the restaurant and people trying to park to grab food, okay. Again, I wish them all a success and I'm not trying to

make them spend any more money, we just want for the neighborhood to ensure that we don't have more traffic issues. Mr. Ridgeway in particular is concerned that one of his grandkids, or a pet, or somebody trying to cross that thing is going to get creamed because people are not following traffic there, okay.

Mr. Monnett: Thank you

Ms. Simler: Thank you very much for your time.

Mr. Monnett: Thank you. Is there a way for Mary to see these photos?

Ms. Giesting: While you're – can you all hear me?

Mr. Monnett: Yes

Ms. Giesting: Before Linda leaves, I want to make sure – and if she can hear me, I'd like to ask this question to her. So, I think I heard her say, she is not opposed to the serving of alcohol, but her major concern is traffic and sound in the evenings. Is that correct Linda?

Ms. Simler: Yes, but there is an issue with an additional facility in our area serving alcohol seeing as how we already have problems with intoxicated people on the top of the parking garage. I could go on with all kinds of stories, like women screaming in the sidewalk area and we rush out to make sure nothing is wrong, yell at them and then oh, okay, we don't need to call the police.

Ms. Giesting: Okay

Ms. Simler: So, bringing an additional facility into the area that serves alcohol will increase a problem that is already there. So, I'm not opposed to it per se but I'm trying to indicate that we're already dealing with an issue at the present time from the bar, that this may or may not exacerbate. You have a 46 person bar here.

Ms. Giesting: Okay, thank you.

Ms. Simler: I don't know how many people fit in the pub, but I'm just doing the math.

Ms. Giesting: Okay, thank you.

Mr. Monnett: Okay, thank you. Anyone else here like to speak for or against this petition?

(Brief pause)

Mr. Monnett: Seeing none, I'm going to open it up to our board for some discussion, and I've got a couple of quick questions for our... go ahead Terry.

Mr. Jones: (Not at microphone) (inaudible)

Mr. Monnett: To come back? Oh, I'm sorry. Sure, would the applicant like to come back up and address some of the concerns?

Mr. Maldonado: Yeah, we would like to address the concerns. We don't want to make – I know that a bar is different from a restaurant; usually more like to eat, enjoy. We usually don't like to serve alcohol more than 2-3 drinks because we don't want to be liable. We especially don't want our insurance to be going up because we allow people happen something, so we usually try to keep our limit to 2-3 drinks per a customer. On the front of the building, we're going to have a - we already talked to Plainfield to have like a sign there for like 15 minutes parking. So, that should for work for to-go orders and for DoorDash and Uber, so it will limit it for people to just have... and we will be monitoring that because we don't want – we know the reason they are going to be in a hurry, they're not going to be parking in the parking lot, they're to going to be going around. They're to going to do that, so they're trying to go as fast as they can. So that's why we're having that on the sign like right in front of the building. We asked them to accommodate those parking lots for us.

Mr. Philip: So, to clarify, those spots are on Center Street?

Mr. Maldonado: Yes, they're on Center Street.

Mr. Philip: In the front?

Mr. Maldonado: They're right in front of the restaurant and we're going to put a sign there saying only 15 minutes or less because this is only for delivery or Grubhub or pick-up. We don't want to create more traffic for you guys. Even for us, the food is going to be prepared and we don't want it to be served cold, so that's why we did that.

Mr. Monnett: I think she – the remonstrance had a good question about the outdoor music.

Mr. Maldonado: Yeah, we usually – it's not that loud. Usually, we try to keep it minimized. At the other restaurants we try to keep it minimized due to the fact there are other restaurants, and we don't want to be a bother. But I mean, we're welcome to like, I don't know – I mean, we wanted to put like a fireplace outside so people can sit down and talk. I mean, I don't know about like the talking but we can probably work something out with the speakers so that way we create less noises. With people talking, we cannot control that. The only thing we can control is like not serve more than two alcohol. That's how our other restaurants does; no more than 2-3 drinks because we don't want to be liable for... And it's different you know, like a bar is where people come and get crazy; a restaurant is more like let's chill out and have a drink and something to eat.

Mr. Cavanaugh: I think we could do something to address the outside music concern. Would you be acceptable to not having speakers there? Because if we set a regulation to that or set

hours of when they can be on or when they can't that's going to be reliant upon the restaurant staff to police that, and then once this is done there won't be any other way for us to have any control over that. So, I think maybe a good thing we could do to help increase, or I'll say, be a good neighbor to the residential neighborhood, is to not have outside speakers.

Mr. Maldonado: Yeah, we can make that happen.

Mr. Cavanaugh: Okay, you'd be agreeable with that?

Mr. Maldonado: We can make that happen, yeah.

Mr. Cavanaugh: Then it would never be an issue you know, for that part of it. Okay, thank you.

Mr. Maldonado: For us (inaudible) be an issue, really. I mean, we will do have like a fireplace outside. I mean, I don't know if that's...

Mr. Cavanaugh: That I'm not concerned about.

Ms. Giesting: Can I ask a question? Your menu, what are the price points? Is it upscale, or is it like – I don't know how to phrase this question, but the folks who are coming in, are we looking at more upscale or just a regular menu of Hispanic food?

Mr. Maldonado: It's a mix. So, it's probably – we're looking more to upscale than to regular.

Ms. Giesting: Okay

Mr. Maldonado: Yeah

Ms. Giesting: Thank you

Mr. Monnett: Any other questions gentlemen?

(Brief pause)

Mr. Monnett: Okay, thank you. Go ahead Terry.

Mr. Jones: One thing I failed to mention earlier, it's probably appropriate to mention now – there was a letter in the file, favorable, from Greg Miller. Don't know if any of you happened to be able to link onto that, but I did want to mention that. The other thing too is the reason the application is here this evening is for the sale of alcoholic beverage. If not for that, a restaurant anywhere in the downtown would be doing the same thing that's being proposed here, without the alcohol. So, I just wanted to kind of maybe kind of refocus that. We're seeing a lot of challenges with downtown revitalization plans and projects, and the building was designed with outdoor seating in mind; it's the reason why the little alcove, or the little porch is there. I know that some of you were involved in those planning efforts, and I just wanted, for the record, to

make sure that that was something that... And the kind of thing that the town is kind of encouraging overall, to get that synergy and vibrant activity, it does come with the issues as were stated here this evening, which are legitimate concerns but we're going to be facing those issues a lot as things occur. You may be seeing that same discussion again during other projects.

Mr. Philip: True

Mr. Monnett: True. Thank you, sir. If there's anyone else, you can come forward now.

(Brief pause)

Mr. Monnett: I'll close it to the public and open it up to our board for discussion. I understand that issues are going to be coming forward with other projects probably and I don't want to get into like the spot zoning that we can get into on certain issues for one place, but it is a very particular situation concerning to the north of the building is how I'm looking at it. And we did receive all the green cards, Kevin? I appreciate Ms. Simler coming in because I wish more people would. I understand your concerns, the noise, people doing whatever, and there are ordinances for that. Please, call the police any time. It starts with one call and then it's got to trickle down to other – and there's so many – and it'll be looked into, I assume, you know, by the office. So please, never hesitate, or your neighbors either. I would do the same thing. Any other points? If there's no more discussion, I'll open it up for a motion for BZA-22-023.

Mr. Cavanaugh: I also appreciate you coming in and sharing your thoughts on the area, they were very well organized and professionally presented I would say, thank you. We're here specifically to consider the Special Exception to serve alcohol in a permitted area. With the (inaudible) that we've received would be consideration from other branches of the town management that's responsible for the public safety. I think that's how those items will have to be addressed. This particular petition has no influence over the traffic or the traffic patterns, and they are going to try to address some parking concerns, but surely those will still happen. They're going to happen in the area no matter what. We have precedence in the area and will continue to have more, you know, venues, perhaps not exactly this type, but others that are going to be similar. With that in mind, I'm going to move that the Board of Zoning Appeals approve BZA-22-023, as filed by TLAHCOS, INC for Special Exception to allow the serving of alcohol at 125 North Center Street, a property zoned TC Town Center District.

1. The proposed use will be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
2. The proposed use will injure or adversely affect the adjacent area or property values therein; and
3. The proposed use will be consistent with the character of the district, land uses authorized therein and the Town Comprehensive Plan.

Subject to:

- Approval is only for TLAHCOS, INC and is nontransferable to a subsequent business/owner/operator at the same location.
- There will be no outside speaker or music devices in the patio area.

Mr. Philip: Second

Mr. Monnett: I have a motion by Mr. Cavanaugh and a second by Mr. Philip. Mr. Klinger, would you please poll the board.

Mr. Klinger:

Mr. Clay – yes

Ms. Giesting – yes

Mr. Philip – yes

Mr. Cavanaugh – yes

Mr. Monnett – yes

BZA-22-023 is approved.

## **OLD BUSINESS/NEW BUSINESS**

Mr. Monnett: Old and new business.

Mr. Jones: Mr. Chairman...

Mr. Monnett: Yes?

Mr. Jones: On that subject – I didn't really want to get into it too much, and I appreciate your comments Mr. Cavanaugh, about the situation on other matters that really don't pertain to that restaurant at this point, but the issues that were brought up this evening are being forwarded to the police department, to the management of the town garage, it's Denison Properties. And we just so happen to have the Town Manager, so consider him alerted to that as well. So, I did want to make sure you know, for the record, that we will be looking into those other matters, but those are really more along the line of policing type issues.

Mr. Klinger: Yeah, so Scott Singleton is already working on both parking regulations as well as – since Rita came in and made us aware of some of the issues with Park Drive – he's going to start looking at that and how has traffic flow changed with some of the changes that have happened

downtown, and how do we deter people from using what is essentially an alleyway. So, Scott Singleton is looking at all of those issues and there will be more that will come out in the future, related to those issues. Things are going to change again when the Government Center opens up and we all move, and then that surface parking lot behind town hall is going to go away, so it's going to change everything again and we'll have to adjust again, to changing traffic patterns, but we're looking into all of those issues.

Mr. Philip: So, my son lives at 136 Vine; I'm very familiar with that alleyway and the amount of traffic, and basically how that's become a loop since the parking garage has been finished. So yes, that's going to be a special challenge and you're going to hear about it repeatedly.

Mr. Klinger: And we had conversations early on about potentially closing of one end of that and making it more pedestrian but the folks who live on that alleyway utilize it to access their drives, and so we can't really just totally shut it off, but we'll continue to look at ways that we can maybe deter traffic but still make it accessible for the people who need to use it.

Mr. Monnett: Mr. Whaley, the Negative Findings of Fact, anything you want to say?

Mr. Whaley: This is just in reference to a petition that came before you last month, that was denied by the Board of Zoning Appeals, so staff has prepared a set of Negative Findings of Fact for your consideration.

Mr. Cavanaugh: I would move that we adopt the Negative Findings of Fact for BZA-22-022.

Mr. Clay: I'll second that.

Mr. Monnett: We have a motion and a second. All in favor say aye.

(All ayes)

Mr. Monnett: I will refrain since I was not here last month.

Mr. Klinger: I'm sorry, I missed who was the second?

Mr. Monnett: Clay

Mr. Klinger: All right, thank you.

Mr. Monnett: Anything else Mr. Whaley? Anything from the board?

## **ADJOURNMENT**

Mr. Monnett: Motion for adjournment?

Mr. Philip: I move we adjourn.

Mr. Cavanaugh: I have a question, I'm sorry; a question and a statement. I noticed in the minutes from last month's meeting there was a lot of inaudible time on it. Is that something that we're doing or is it more of a technical thing? Because there was quite a bit of discussion regarding that Farrar barn that would have been good to have on there, I think.

Mr. Philip: The motion wasn't even in there.

Mr. Klinger: Yeah, I think we're having some technical issues, but also sometimes people are forgetting, their muting themselves and forgetting to turn it back on and so it's not getting picked up on the mic. So, if you can, make sure that your mic is on and not muted when you're speaking, that would be very helpful. But I think we are also having some technical issues that makes it hard for the transcriptionist to interpret what's being said.

Mr. Cavanaugh: It's much better than it ever was before.

Mr. Klinger: Yeah

Mr. Monnett: Absolutely

Mr. Cavanaugh: And then, I will not be able to attend next months meeting, remotely nor in person.

Mr. Monnett: Thank you for filling in last month.

Mr. Cavanaugh: With that, I'll move to adjourn.

Mr. Philip: Second

Mr. Cavanaugh: So moved, thank you.