

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 14<sup>TH</sup> DAY OF AUGUST 2008 AT 9:00 A.M.**  
**MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING**  
**4230 ELKHART ROAD, GOSHEN, INDIANA**

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairperson, Jeff Burbrink, with the following members present: Tom Holt, Steve Warner, Dennis Sharkey, Meg Wolgamood, and Mike Yoder. Staff members present were: Robert Watkins, Plan Director; Mark Kanney, Planning Manager; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Wolgamood/Holt*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10<sup>th</sup> day of July 2008 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Warner/Wolgamood*) that the legal advertisements, having been published on the 2<sup>nd</sup> day of July 2008 in the Goshen News and on the 4<sup>th</sup> day of July 2008 in The Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Yoder/Holt*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. With a unanimous vote, the motion was carried.

5. The application for the vacation of a north/south alley right-of-way for ***Benton Mennonite Church, Inc.*** represented by B. Doriot & Associates, located between Jackson Street and Elkhart Street, 132 ft. East of Clymer Street in Benton Township, zoned R-3, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082394*.

Blake Doriot of B. Doriot & Associates, P.O. 465, New Paris, was present on behalf of this request and he noted that Perry Miller, a member of the church, is also present. An aerial photo of the alley in question was then submitted to the Board [*attached to file as Petitioner Exhibit #1*].

According to Mr. Doriot, Mr. Miller was under the impression the alley was vacated years ago. If they cause a problem with the utility pole, he said the lights would go out in the church so they agreed to allow the utility companies to maintain any utilities that go through the alleyway. Mr. Miller has talked with Cecil Bontrager, the landowner of the property at the southwest portion of the subject alley, and he is in favor of this vacation.

Mr. Burbrink asked if the portion of the alley that abuts the Bontrager property would go to Mr. Bontrager. Mr. Doriot said all of the lots were platted at the same time the alleyway was created so Indiana statute gives 50 percent to each adjoiner.

When asked if there is still an east/west alley right-of-way that has not been vacated, Mr. Doriot said the east portion of that alley was vacated. They did not include the portion to the west in this vacation because they have not contacted the landowner of Lot 25, but he indicated they will probably come back to vacate that portion at a later date.

There were no remonstrators present.

A motion was made and seconded (*Sharkey/Wolgamood*) that the public hearing be closed and the motion was carried with a unanimous vote.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Sharkey*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis and the motion was carried with a unanimous roll call vote.

6. The application for a zone map change from General Planned Unit Development-R-1, R-2, R-4, B-1, B-2, and B-3 to a Detailed Planned Unit Development-R-1, R-2, B-1 B-2, and B-3 to be known as **WAKARUSA BUSINESS CENTER ROAD DPUD**, for Kemar Properties represented by B. Doriot & Associates, on property located on the West side of SR 19, 1,620 ft. North of Waterford Street in Olive Township, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082396*. For clarification, he said all they are addressing today is the road.

Present on behalf of this request was Blake Doriot of B. Doriot & Associates, P.O. Box 465, New Paris. Also present from Kemar Properties were Harv Kemp and Doug Graham. Mr. Doriot explained that they have no one purchasing property in the site yet, but they want to get started on their road. They thought they had a potential buyer, but that individual decided to hold off due to the current situation with Monaco Coach. He said they want to get the infrastructure started so future companies see they are serious about this site.

The Phase I roadway plat (in file) was displayed and Mr. Doriot explained that the east right-of-way of the road will be on the B-1, B-2 and B-3 zonings. Also displayed was the GPUD site plan. The cul-de-sac will be approximately 250 ft. from the south property line, and he said they are currently working with Jim Emmons and the town on the sewer access. He pointed out the location of the sewer on their property by easements, and he said there will be a new lift station placed at the north corner of property. When the lift station for Utilimaster needs to be replaced, he said they will pipe it over to their new lift station, which will reduce approximately 3,000 ft. of force main for the town.

Mr. Doriot said all of the water is going back to the storm water management buffer zone as shown on the Wakarusa plan that was before the Plan Commission. The storm water will be piped via a 20 ft. drainage easement to the retention pond and that retention pond has an additional 74,000 cubic feet of capacity. The street generates approximately 30,000 cubic feet and he said they are putting 100 percent of the street water into that so they have double the capacity in the pond.

A copy of the Traffic Impact Study that is being submitted to InDOT was submitted to the Board at this time *[attached to file as Petitioner Exhibit #1]*. Mr. Doriot said InDOT is looking at it as a non-signalized intersection, and it would either remain non-signalized or they would impose a 10-year time period in which they could require the developer to signalize that intersection. According to Mr. Doriot, that would depend on the level of traffic coming out of the entrance that lines up with the entrance across from Utilimaster, and he believes the States's goal in the future is to close some of the entrances and have Utilimaster access straight across from the petitioner's entrance.

Mrs. Wolgamood said the GPUD included an R-4 zoning, but Mr. Doriot said the R-4 has been completely deleted. When the roadway continues north, she asked if the retention area will be the only retention area for the roadway to the north. Mr. Doriot said they will have to build another retention area to the north based on the contours of the land, but that will be done as they phase the

roadway north. He then explained that the retention area shown on the site plan is basically augmenting the natural pond (to the west). He said they will run an easement into that pond and they may widen the edge, but they are not going to excavate the bottom at this time.

Tom Sisk, the director of finance with Utilimaster Corporation, 65906 SR 19, Wakarusa, said he is not in opposition to this request, but he has no comprehension of where the proposed road is located and he would like to see the illustration.

Mr. Doriot reviewed the site plan with Mr. Sisk, and he pointed out the location of their entrances and the lift station on the aerial map.

Mr. Sisk said closing off entrances was also mentioned and that Mr. Doriot had gestured at the southern edge of their property. He asked if that is something that has already been decided to be done by the Plan Commission.

In response, Mr. Doriot said InDOT has made the statement that they would like to close those accesses in the future for the safety of people traveling SR 19 because of the multiple exposure points. He said they may require a signalized intersection in the future, but they cannot force them to close an existing curb cut at this time. He did say, however, that negotiations on that would come when they decide to four-lane SR 19.

A motion was made and seconded (*Yoder/Sharkey*) that the public hearing be closed and the motion was carried with a unanimous vote.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Wolgamood*) that the Advisory Plan Commission recommend to the Town Board of Wakarusa that this request be approved in accordance with the Staff Analysis and comments of the Technical Advisory Committee with the following conditions imposed:

1. Provide drainage calculations for street and show elevations method of how drainage is conveyed to retention area.
2. Submit copy of traffic study that InDOT is reviewing to the Elkhart County Highway Department.
3. Road construction and entrance must meet InDOT and Wakarusa standards if applicable.
4. Use drainage swales with check dams to pre-treat storm water before it enters the retention area and use native plants.
5. A SWPPP needs to be filed prior to Secondary approval.

With a unanimous roll call vote, the motion was carried.

7. The application for Secondary approval of a Detailed Planned Unit Development known as **WAKARUSA BUSINESS CENTER ROAD DPUD**, for Kemar Properties represented by B. Doriot & Associates, on property located on the West side of SR 19, 1,620 ft. North of Waterford Street in Olive Township, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082397*. He said the staff supports the dedication of a road right-of-way with the understanding that the conditions of the Planned Unit Development are complied with before the Town Board accepts the right-of-way.

Mrs. Wolgamood asked if the DPUD ordinance would reflect that this is only for the road right-of-way and Mr. Kanney said yes.

In addressing the comments of the Technical Advisory Committee, Blake Doriot of B. Doriot & Associates, P.O. Box 465, New Paris, said they have already done the drainage calculations and they have plenty of water retention. He said the calculations were just not put on

the plat. The initial Traffic Impact Study has been submitted and he pointed out that they have to provide a bond for InDOT for the road construction, which they hope to begin before winter. He is a proponent of swales and they will be installed after they get the water away from the road. In addition, he said they will have their SWPPP filed prior to the Town Board meeting.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Sharkey*) that Secondary approval be granted by the Advisory Plan Commission with acceptance of the right-of-way by the Town Board of Wakarusa when the requirements of the PUD ordinance have been met. The motion was carried with a unanimous roll call vote.

8. Duane Burrow presented a request from *Crossroads Community Church* for a minor change to their Detailed Planned Unit Development (DPUD) located on the Northeast corner of CR 17 and CR 18 in Concord Township.

He submitted a letter to the Board with a site plan attached [*attached to file as Staff Exhibit #1*] requesting to add a playground to the south side of their existing building and west of their parking lot. The tower is currently under construction, and according to Mr. Burrow, was not shown on the original Site Plan / Support Drawing. He said it is the Plan Commission's discretion as to whether or not this change would go to a public hearing.

Mr. Kolbus asked if any type of recreation area was shown at all and Mr. Burrow said a ball diamond type of recreation was shown across the street. Nothing of this magnitude was shown on the original site plan, but he said it's not out of keeping with what churches are now doing.

Mrs. Wolgamood noted that it does not show the size of the area or any setbacks. She also asked if the net climber is what is being or has already been constructed, but Mr. Burrow said that is a three-story tower in the southwest corner of the site, which is just south of the church building. Basically, he said it is just an extension of the developed area for the church and it really is not coming much closer to the right-of-way. However, he did say it is significant in the fact that it is a three-story tower.

When the setback on CR 17 was questioned, Mr. Burrow said 120 ft. He said they would only have to be 40 ft. from the property line so they are significantly away from the setback requirements. He then clarified that CR 17 is about 120 ft. in width because of the intersection.

Evor Johns of Progressive Engineering, 58640 SR 15, Goshen, was present representing Crossroads Community Church. He explained that the playground area in question extends out from the south end of the church a distance about even with the parking lot on the west side and it fills that area in. There will be a substantial amount of grass area to the east, and he said this is only for the playground area as they will be addressing the tower separately. He then indicated that there are things located in the northwest corner for a small children area, but the majority of the area is to the southwest.

Mr. Johns was asked why they are relocating the play area from across the street to this area and he said the play area across the street is a baseball diamond. Because of the different age groups, he said you don't want children crossing the street so this is primarily for the children area, which is adjacent to the children's worship center

Mr. Holt asked if there is a fence to keep children away from CR 17 and CR 18 and Mr. Johns said no as the distance is approximately 175 to 200 ft. Mrs. Wolgamood indicated that the speed limit in that area is 55 mph, but Mr. Sharkey said it is a long distance away.

Mr. Sharkey expressed his concern about a fence as well and he asked how they will protect

themselves from neighboring children coming over in the evening without being supervised. Mr. Johns acknowledged that that is a church liability.

When asked if there will be lighting, Mr. Johns said they already have wiring coming out from the building for lighting, but they have not yet decided what the lighting will be.

Since this is a DPUD, Mr. Kolbus advised that the Board would have the right to impose a condition requiring fencing because it is a health and safety issue for the community.

When Mr. Johns reiterated that the tower will be addressed separately, Mr. Burrow clarified that he is referring to engineering issues with the building codes.

Mrs. Wolgamood moved that the Advisory Plan Commission consider this request to add a playground to the south side of the existing building a major change requiring an amendment to the DPUD. Mr. Holt seconded the motion, which then carried with Mr. Yoder voting in opposition.

9. The application for a zone map change from General Planned Unit Development-B-3 to a Detailed Planned Unit Development-B-3 and for Secondary approval of a Detailed Planned Unit Development to be known as **MIDDLEBURY IN-15 & US 20 DPUD**, for Dallas & Janeth Fireline (sellers) and ERS Telecom Properties (buyer), on property located on the West side of SR 15, 444 ft. South of US 20 in Jefferson Township, were presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis', which are attached for review as *Case #20082365* and *Case #20082367*. He explained that there is no requirement for dedication of right-of-way and/or bonding so the statement that it is in compliance can be made.

Present on behalf of this request was Steve Woody of ERS Telecom Properties, 12115 Covered Wagon Court, Granger.

Mr. Yoder questioned future collocates mentioned in the petitioner's documents. Mr. Woody explained that they have two tenants who are interested in being on the tower at 240 and 250 ft. in the future and those tenants would be in small buildings.

The distance of the closest existing tower was questioned by Mrs. Wolgamood and Mr. Woody said there is a tower straight north that is over one mile away.

Mr. Burbrink asked if a Verizon customer can benefit from this tower and Mr. Woody said their tower could accommodate anyone else who needed to go there.

Mr. Yoder said he feels this is a good place for a tower as there is a lot of commercial in the area. Mr. Woody said the property is completely surrounded by woods and they have put it as far off the road in the least visible location they can. He then indicated that they will try to leave as many trees as they can. He also explained that a guyed tower has a small narrow base so you don't see them from a distance like you would a self-supporting lattice-work tower.

Mr. Warner asked if the area is up on the hill and Mr. Woody said it is a high flat spot and gradually slopes down toward the creek. When asked if it is lower than the intersection, he said maybe a little.

It was then clarified that the Board is only considering the area outlined on the aerial and they are also allowing the platting of Lot 2. Mr. Woody also offered to allow the county to put up an antenna at this site if there is a need.

There were no remonstrators present.

A motion was made and seconded (*Sharkey/Wolgamood*) that the public hearing be closed and the motion was carried with a unanimous vote.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Wolgamood*) that the Advisory Plan Commission recommend to

the Board of County Commissioners that this request be approved in accordance with the staff comments and Staff Analysis with the following conditions imposed:

1. That the Site Plan / Support Drawing be amended by the installation of a designed drainage swale along the north and west property line. This would be used to direct flow onto Lot 2 of this request and reduce the possibility of storm water movement to the west property owners.
2. That the Stormwater Pollution Protection Plan be approved and filed with the Indiana Department of Environmental Management before building permits will be issued.

The motion was carried with a unanimous roll call vote.

A motion was then made and seconded (*Yoder/Burbrink*) that the Advisory Plan Commission grant Secondary approval as the Development Plan (PUD Plat) reflects the proposed DPUD Site Plan / Support Drawing and is in compliance with the Elkhart County Zoning Ordinance – Specifications I and the Subdivision Control Ordinance for Secondary Platting. With a unanimous roll call vote, the motion was carried.

\* (*It is noted that Mr. Warner was not present for the remainder of the meeting.*)

10. The application for a zone map change from R-2/B-3 to a Detailed Planned Unit Development-B-3 to be known as **SIMONTON LAKE MARATHON DPUD**, for Kalyana & Sumathy Sundram represented by Rob Martin, Barr Design Group, LLC, on property located on the Northwest corner of SR 19 (Cassopolis Street) and Roseland Road in Osolo Township, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082361*. To clarify why the staff is requesting that the southern most parking space be removed (1e), he said it is within the setback requirements established by the ordinance and the staff feels that space will hinder turning motions.

Tim McCullough of McCullough Scholten Construction, 2112 Aero Plex Drive, Elkhart, was present on behalf of this request. He noted that the property owners are also present today. He explained that the property owners purchased the subject property and would like to consolidate that with their existing adjoining property (to the south). They would like to construct an addition onto their convenience store and add a canopy onto their fuel island for the addition of one pump. They propose to close one curb cut on SR 19 located at the center of the property to alleviate congestion. They would then use the curb cut at the north end of the lot they have purchased and redefine the curb cut on Roseland Drive.

In terms of construction, Mr. McCullough said the petitioner wants to remodel the existing building with masonry and glass and re-do the existing roof profile. The addition would tie-in with the existing building to make it more attractive and be more competitive with the convenience store industry. In addition, they will re-do the parking and paving, and he said the petitioner is in agreement to tie-into municipal sewer through the Simonton Lake Sewer Conservancy District. He then acknowledged that they would have to meet the parking, drainage and screening requirements of the different zoning.

Mr. Yoder noted that the staff is recommending they delete a 12,000 sq. ft. building and he asked if that is the existing building or the future building delineated on the site plan. Mr. McCullough explained that the petitioner hopes not only to expand the C-store, but also provide some additional revenue using that land. He said people think there is more they can do with their

land than they can by the time you get drainage and setbacks involved, and the petitioner was hoping he could fit something in there in the future. However, he said the petitioner's priority is the convenience store and gas business, and he hopes to get the c-store so people can move around the site and meet the ordinance for drainage.

Mr. McCullough was asked if they had any objection in coming back with some type of change in the future. He posed the question to Mr. Sundram and he agreed to come back and apply if this request is not approved with the future building.

Mr. McCullough asked if the staff asked for a green space or setback on the north lot they want rezoned and Mr. Burrow said just on the areas that are adjacent to residential. He said it shows a 25 ft. setback to the two residential properties. Mr. McCullough said the existing building sits back 15 ft. so he can tie-on to that. Mr. Burrow said that is correct and he has no issue with the location of the buildings as shown on the site plan.

There were no remonstrators present.

A motion was made and seconded (*Burbrink/Yoder*) that the public hearing be closed and the motion was carried with a unanimous vote.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Wolgamood*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis (as amended by the Board):

1. The Site Plan / Support Drawing be amended by the following imposed conditions:
  - a. Delete the proposed 1,200 sq. ft. building.
  - b. The retention areas, adjacent to the existing residential, are redesigned to allow for a 25 ft. green space. With regard to the existing building and the proposed addition to the green space shall be reduced to the existing setback.
  - c. The green space shall be landscaped with shrubs and trees, which are to be evergreen and deciduous mix.
    - i. The objective of the green space shall be to:
      1. Establish a defined buffer area between the commercial and existing residential.
      2. Reduce the chances of unintentional placement of outside storage, trash bins, and other noise or odor generating accessory uses.
  - d. Specified landscaping shall be installed in the first spring or fall season following occupancy.
  - e. Remove the most southern parking space and a portion of the adjacent remaining spaces within the 25 ft. green space.
  - f. Add a note to indicate that the upgraded façade used on the front of the building be extended to the west facades of the existing and proposed building.
  - g. Add a note that all lights on site will be directed on site to reduce fugitive light into the existing residential uses.

A roll call vote was taken and the motion was carried with a unanimously.

\* (*It is noted that Blake Doriot arrived for the meeting at this time.*)

11. The application for a zone map change from B-3 to M-1, for *Wakarusa Corp./Dave Hoefler (seller) and Scott Tuttle (buyer)* represented by Ross Miller, FM Stone Commercial, on property

located on the South side of Waterford Street (CR 40), 467 ft. East of SR 19 in Harrison Township, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082356*.

Present on behalf of this request was Ross Miller of FM Stone Commercial, 421 S. 2<sup>nd</sup> St., Elkhart, representing Scott Tuttle, who is now the owner of the property in question. He submitted signatures from five adjoining property owners who are in support of this request *[attached to file as Petitioner Exhibit #1]*. He was asked to show the location of those owner's properties on the aerial map, and he clarified that the signatures do not include the owners of the two properties south of the subject property.

Mr. Miller explained that the petitioner is going to operate a recreational vehicle manufacturing company from this building, which is currently being used primarily as offices and storage warehouse for Hart Housing. Hart Housing will remain a tenant and Mr. Tuttle will occupy the rear portion of the building. He then reported that the petitioner plans to install a fence and buffer along the south side of the property as he will need that for protection of his yard.

He went on to say that the properties to the west are all manufacturing and he pointed out the location of a body shop that has been there for many years. The property to the east is vacant, and there are commercial properties across the street with residential properties located to the south.

According to Mr. Miller, Mr. Tuttle has talked to the Wakarusa Town Board, and as far as he knows, they are in favor of this rezoning.

Scott Tuttle, 64881 CR 1, Wakarusa, was also present. He explained that he disengaged from Heartland Recreational Vehicles in January, which he's operated for the last six years. He established Livin' Lite six months before Heartland, which is based in Goshen, but he's a Wakarusa resident and he's been working with the Wakarusa Town Council for the last year trying to find a building in Wakarusa. This building became available and he said it will be a nice facility for his operation.

Mr. Tuttle continued to explain that the south end of the property is basically weeds and there is a dilapidated fence that's being removed this week. He pointed out the area of the property they are re-grading with stones, and he said he's installing a new six-foot chain link fence with gates and either vinyl or nylon mesh inserts so you can't see through it. He's not installing barbed wire on top of the fence because there's nothing in the units that can be stolen.

In describing the business, Mr. Tuttle said they manufacture a small, all aluminum pop-up camper. There are no wood materials in the product so this is not a typical RV manufacturing facility where you store a lot of raw materials outdoors. The manufacturing will be done in the southern 7,000 sq. ft. portion of the existing building, and there is a section of the building that is still the old farm center that he will remodel into offices.

Mr. Tuttle described the automotive campers they manufacture as an aluminum box with a soft tent that comes out, and a brochure with construction photos of the camper was then submitted to the Board for review *[attached to file as Petitioner Exhibit #2]*.

Mr. Sharkey asked if the entire area will be fenced, but Mr. Tuttle said only the area where they will store the units until a truck comes to haul them away, which he pointed out to the Board. He then indicated that once in a while they may have some aluminum that needs to be stored outside, but he said it would be covered with a tarp. He said that aluminum would probably be stored inside the fenced-in area next to the building by the doors. He did say, however, that with today's market he really doesn't want any aluminum stored outside.



Sarah Weirich, 66148 SR 19, Wakarusa, was present saying she lives on the south side of the fence. She is not opposed to the pop-up units being there, but she asked what time they will be loading and unloading their product and how early they start in the morning. She is concerned about the noise level because she can hear people over there at night now. She also asked if Mr. Tuttle owns the large area (to the east of the building) and if he will keep that mowed.

In response to Ms. Weirich's concerns, Mr. Tuttle said they start at approximately 6:00 a.m. in the summer and 7:00 a.m. in the winter. All of their manufacturing will be done inside the building, and he said the entire southern portion of the property will be closed off so that should reduce the noise from loading and unloading. He agreed there are a lot of weeds and he indicated that area will be cleaned up. The new fencing will also provide a barrier for Ms. Weirich. There will be no activity in the yard at night, and he feels the loudest noise will be from the cutting of aluminum. He then explained that the cutting will be done in a 17-foot area between two existing brick walls so it should be fairly quiet.

A motion was made and seconded (*Doriot/Burbrink*) that the public hearing be closed and the motion was carried with a unanimous vote.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Holt/Doriot*) that the Advisory Plan Commission recommend to the Town Board of Wakarusa that this request for a zone map change from B-3 to M-1 be approved. The motion did not carry with the following results of a roll call vote: Holt – yes; Sharkey – no; Doriot – yes; Wolgamood – no; Yoder – no; Burbrink – no.

During further discussion, Mr. Miller asked if a denial would prevent them from coming back with a DPUD immediately and Mr. Kolbus said no. Mr. Miller explained that applying for a PUD was not mentioned, and although he knew it was an option, he did not think it was necessary in this case because they have surrounding M-1 zoning. He said they have no problem with doing a PUD, but he does not want to hold the petitioner up another 60 days.

In further discussion, Mr. Kolbus advised that the Board could send the request on to the Wakarusa Town Council with a negative recommendation with a comment that they feel a DPUD is more appropriate. When Mr. Sharkey asked Mr. Tuttle what he would prefer, he said he is fine with filing a PUD if the Town of Wakarusa makes the final decision. He said he can still manufacture there within the current zoning as long as he remains less than a certain amount of square feet. He said he will continue to move forward and he trusts this will work itself out in the coming months so he's not too worried about a 30 or 60 day delay.

If the Board tables the request, Mr. Sharkey said it would not go to the Town of Wakarusa and Mr. Kolbus said that is correct.

Mr. Sharkey then moved that the Advisory Plan Commission recommend to the Town Board of Wakarusa that this request be denied as the Plan Commission feels a DPUD would be more appropriate based on the Staff Analysis. Mrs. Wolgamood seconded the motion, which carried with the following results of a roll call vote: Holt – no; Sharkey – yes; Doriot – yes; Wolgamood – yes; Yoder- yes; Burbrink- yes.

12. An Amendment to the Plan Commission Rules of Procedure was presented by Mr. Burrow. He explained that they developed a procedure to place the town of Wakarusa in a position to comment on any applications that would come before the Plan Commission per their Comprehensive Plan. There is a Letter of Review and Consideration that must be filed with all

applications, and he said this is in compliance with the comprehensive plan's intent to place them in a position to give commentary as to whether or not they can meet the criteria.

Mr. Burrow said he added that they first have to create this Letter of Review and Consideration with the town and Plan Commission, and that will not go into effect until 60 days after that letter has been adopted by the town and Plan Commission.

Mr. Kolbus explained that it will basically allow the staff to work with the towns to come up with a standardized form they can use that the Plan Commission will approve. The purpose and intent is for it to basically be a Tech Report from the town. It is only for the Plan Commission's consideration and he said it doesn't force anything on them in terms of complying with their standards.

Mr. Burrow added that the County Commissioners are not giving away any powers or responsibilities. They hope to have this occur with Middlebury and Bristol as well, and he said it was designed so towns are put on notice when there is a major land use change being proposed in that urban growth area and/or inside the town itself.

Mrs. Wolgamood asked if this is for property just inside the town, but Mr. Burrow said it includes only the municipality and the urban growth areas. Mr. Doriot clarified that the towns do not vote and have the final say in the urban growth areas, they would just have an area of comments and Mr. Burrow said that is correct. He explained that the Town of Wakarusa had these development standards that they may adopt under their sewer ordinance, and if adopted, then that becomes part of their review and consideration of the site plan.

When asked if this is just formalizing what they used to do on an informal basis in all of the towns, which they called the area of influence, Mr. Burrow said yes. He said they will not forward any application without this letter of consideration and it is one additional item that will have to be filed in those areas.

In terms of trying to find that area of balance between city and county, Mr. Kolbus said he thinks they want something more formal.

Mr. Yoder moved that the Advisory Plan Commission adopt the Amendment to the Plan Commission Rules of Procedure as presented and Mr. Doriot seconded the motion, which carried with a unanimous roll call vote.

13. There were no audience items.

14. A request from Michael Anderson for a two-year extension of Primary approval for **Chelton Glen** was read by Mr. Kanney, which is in the file for review. The property is located on the West side of CR 19, South of CR 6 in Washington Township. The reason for this request is due to the economic downturn, and the developer would like to have over half of the platted lots in Phase 1 sold before he begins Phase 2.

Mr. Kanney noted that Michael Anderson, the owner and developer of Chelton Glen, is present. He then displayed the primary plat of the entire subdivision and pointed out Section 1, which was platted in 2006.

After a brief discussion, Mr. Doriot moved to extend Primary approval of Chelton Glen for a period of two years from today's date. Mr. Sharkey seconded the motion, which then carried with a unanimous vote.

15. Mr. Burrow then presented a request for a major/minor change to the site plan for **Towne**

*DPUD* for modernization of the septic field. He noted that copies of the Site Plan / Support Drawing and a cover letter from Chris Marbach were included in the Board's packets. Copies of a memo to the Plan Commission from Mr. Burrow dated August 14, 2008, with an attached Complaint Actions Report were distributed, which is in the file for review. He then clarified that this is the old Bud's Carpet Barn property.

According to Mr. Burrow, the question coming before the Board is whether or not they should be required to connect to sewer and water before any additional permits are issued. He reported that a red tag was issued on June 25, 2008, to stop work on the remodeling of the residence into an office on Lot 1 as no building permit was issued and there is no state release.

The Site Plan / Support Drawing adopted by the Plan Commission had a note indicating that Lot 1 will be required to connect to city sewer and water in the event the current system fails. The Board of County Commissioners adopted that site plan with that note in February 2007. In October 2007, he said the property owner made a request to the Health Department to install an on-site septic system. The staff's contention is that they don't normally request a septic permit unless the septic has failed.

When asked what they put in, Mr. Burrow said a conventional septic system. Mr. Yoder commented that that was because they couldn't locate the field, it wasn't because it failed according to the letter from the Health Department. However, Mr. Burrow said their contention is that they should be required to connect to city services as the note on the site plan is what they represented as the existing septic. They indicated at the public hearing that they knew where the septic was and what it consisted of, and once that system failed, they would be required to be connected.

The second question Mr. Burrow said is whether or not the use of the existing warehouse on Lot 2 for employees would also trigger the requirement for that lot to be connected to sewer and water. The staff feels they are not just storing cleaning material; they are having employees coming there to clean materials.

Mr. Doriot recalled at the public hearing that there would be some cleaning of materials, but the majority would be done off-site. Mr. Burrow said it is correct that they would bring back a small portion of fire or smoke damaged items to the site for cleaning, but when the permit was issued in November, it was just for hooking up the gas line. He said it was just for storage and they were not to do any cleaning on site. From their observations on July 2nd, he said it appeared they actually remodeled the interior of the building for use by the employees.

He reiterated that the question is whether or not they should be required to connect to sewer and water for those two sites, and he clarified that sewer and water goes right by the property.

In order to put in a sewer line, Mr. Burrow said they are contending that they will have to dewater in order to extend sewer so there will be an additional cost to connect to city services. However, he said that was not alluded to in the petition for the DPUD.

The depth of the trenches for the conventional system was questioned and Mr. Burrow said probably no deeper than 24 inches. He said the water table was not a concern for the installation of a conventional septic.

As required by the ordinance, Mr. Burrow said if there is a conflict, the Plan Commission is the entity who would have to interpret the site plan for the staff. He noted that the property owner and Mr. Marbach are present, and he said the staff's contention in their recommendation to the Board is that the owner present a Site Plan / Support Drawing (page one of staff document) with utility connection notes. The existing septic system failed and was replaced in violation of the DPUD. In addition, the utility connection notes on the Site Plan / Support Drawing did not specify

that the land use had to change before a septic system failure required connection to city services.

Mr. Burrow said the cost of connecting to the sewer is not germane to the discussion, but it is up to the Plan Commission. He then pointed out that the history of the site is included in his memo, and he concluded his comments by saying the issue is whether or not the Board feels connecting to city services is a minor change to the site plan. The staff feels this is a major change and they should be required to connect.

Mr. Kolbus noted that Lot 2 shows a proposed office and proposed garage and he asked if that has been put in. Mr. Burrow replied no and he pointed out the building they conclude to be more than just storage.

In looking at the site plan, Mr. Kolbus said it appears the proposed office/garage is going over an existing septic system. When you put the proposed building in, he said you have to take out that septic and at that time you would be required to connect all of the buildings on the lot to city water and sewer for Lot 2. Mr. Burrow said that is correct, but he said what about Lot 1.

Regardless of what happened, Mr. Kolbus said the question is that they want to remove those conditions of connecting to city water and sewer. When Mrs. Wolgamood asked on Lot 1, Mr. Burrow said they are concluding that they established a land use on Lot 2 by creating a warehouse with employees cleaning materials; however, the staff would accept Mr. Kolbus' comment about connecting to city utilities when the proposed building/garage is constructed.

In reviewing the letter from the Health Department, Mr. Yoder said the septic did not fail, but because they were unable to locate the field system, they agreed that a new one could be installed. In looking at the condition, Mr. Kolbus interpreted that not being able to find the septic system is different than it failing and Mr. Yoder agreed. However, Mr. Burrow said it was adopted in February with those conditions, then in October a septic was installed and then a permit was requested. He said failure is based on the fact that it is not properly treating the affluent, and the intent under the comprehensive plan is that people within the areas associated with the urban growth areas, especially those areas with sewer and water already in existence, should be required to connect.

Mr. Sharkey asked if the septic and drain field is already in and approved and Mr. Burrow said yes. Mr. Doriot asked if the septic will accommodate an office of five people and again Mr. Burrow said yes.

Mr. Doriot moved that the Advisory Plan Commission considers this request a minor change to the DPUD site plan with Mr. Kolbus' interpretation of the map, and the fact that if the septic system will not handle the expansion of the office to a larger size on Lot 1, they are required to connect to city utilities. Mr. Holt seconded the motion, which carried with the following results of a roll call vote: Holt – yes; Sharkey – yes; Doriot – yes; Wolgamood – no; Yoder – yes; Burbrink – yes.

It was then clarified that the Plan Commission is affirming the original condition on Lot 2 so no action was required at this time.

16. See page 4, item #8 for *Crossroads Community Church*.

17. A request to vacate 10 ft. of the 20 ft. drainage/utility easement at the back of Lot 83 of *Bridlewood Estates* was presented by Mr. Kanney. This property is located on the South side of CR 20, East of SR 15 in Jefferson Township. Copies of the plat of the lot showing the requested vacation were distributed to the Board, which is in the file for review.

According to Mr. Kanney, a letter has been submitted from all of the utilities and from Brads-Ko Engineering & Surveying, the designer of this subdivision, releasing that 10 ft. He explained that the landowner put in a concrete pad for a small accessory building and then learned the required setback is 10 ft. Mr. Kanney feels that vacating this 10 ft. will not cause any problems.

Mr. Yoder moved to approve the request to vacate 10 ft. of the 20 ft. drainage/utility easement on Lot 83 in Bridlewood Estates and the motion was seconded by Mr. Holt. The motion then carried with a unanimous roll call vote.

18. Mr. Watkins read and displayed the Brownfield Recognition Award just received at a national convention in Detroit. He noted that Elkhart County is the first to receive this award, which is based on what they are doing with technology and the EPA's desire to share that technology. He then went on to describe the information technology they have created, and once it is completed, he said it can be shared with anyone in the country who wants it.

19. In an update on the *Subdivision Control Ordinance*, Mr. Watkins said they have tried to incorporate a number of comments received during the four public meetings into the latest draft. They also need to consider the Highway's revised street standards, what has been omitted from the standards that was originally in the subdivision ordinance, and what standards should be put back into this ordinance. He said the sub-committee is happy with the draft they have, and he would like to hold a public hearing on this ordinance at the September Plan Commission meeting assuming they can incorporate whatever is necessary from the Highway standards back into this ordinance.

Mr. Doriot reported that they are still working on standards for the drainage requirements for administrative subdivisions. Basically, he said they are discussing putting the owner/developer on notice that he has to maintain the tiles coming through, and he asked the staff if they are looking for actual drainage numbers or more guidelines on what you don't do.

Mr. Yoder suggested they have someone review the site for drainage before the house is located and a building permit is issued. Mr. Kanney said you have to be careful as you are enforcing regulations and not doing quality control for builders.

Mr. Doriot then indicated they would come up with something to be reviewed in the next week or so.

Mr. Watkins also reported that he has also been trying to get standards from the Fire Chief's Association for a dry hydrant, and he indicated that Mr. Burbrink provided a good guide he feels they can revise and make part of the standards for considering when that would be necessary.

If scheduled for public hearing in September, Mr. Sharkey asked that the staff put out a news release closer to the time of that meeting. Mr. Doriot suggested putting the news release in the Farmer's Exchange and Mr. Watkins said they are on the media list.

Mr. Kolbus advised that they have to have the draft of the ordinance available for public inspection ten (10) days prior to that meeting. That falls on Labor Day, Monday, September 1<sup>st</sup>, so that will have to be ready by Friday, August 29th.

Mr. Doriot said he would like to have some type of centerline monumentations required in subdivisions. Mr. Kolbus indicated there is a section on monuments in the ordinance, and Mr. Doriot was then asked to provide the language for that and he agreed.

During further discussion, it was determined to have the final draft of the ordinance completed with discussion at the next planning workshop. Mr. Watkins indicated that the draft will

be available at the same time they notify the public.

Mr. Yoder moved to set the Elkhart County Subdivision Control Ordinance for public hearing on September 11, 2008. Mr. Sharkey seconded the motion and the motion was carried unanimously.

If approved, Mr. Watkins said the ordinance would not be implemented until the first of the year because there will still be issued that need to be worked out in terms of the administrative subdivision and record keeping.

20. Mr. Watkins reported that the staff has been looking at software demonstrations and he went on to describe some of the features of those software packages. Another demonstration will be held August 21, 2008, and financing a software update that could be utilized by various departments was also discussed.

21. The meeting was adjourned at 11:23 a.m.

Respectfully submitted.

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Kathleen L. Wilson, Recording Secretary

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Jeff Burbrink, Chairman