

MINUTES
ELKHART COUNTY PLAT COMMITTEE MEETING
HELD ON THE 12TH DAY OF JUNE 2008 AT 8:30 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plat Committee was called to order by the Chairperson, Meg Wolgamood, with the following members present: Blake Doriot, Jeff Burbrink, and Tom Holt. Staff members present were: 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 (*Doriot/Holt*) that the minutes of the regular meeting for the Elkhart County Plat Committee held on the 8th day of May 2008 be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Burbrink/Doriot*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearing and the motion was carried unanimously.

4. The application for Secondary approval of a Detailed Planned Unit Development to be known as **REPLAT OF LOT 3 OF LUMBER SITE PHASE I DPUD (TACO BELL)**, for RLC Enterprises, Inc. (buyer/developer) and Pyramid Properties, Inc. (seller) represented by Wightman Petrie, Inc., on property located on the West side of CR 17, 700 ft. South of SR 120 in Osolo Township, zoned DPUD-B-3, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081699*. He explained that the amendment is basically changing from a retail store to fast food for the Taco Bell and it also changed a few easements.

Mr. Doriot asked if it is cross-accessing the Arby's and Mr. Burrow said yes. He clarified that they just had to move it because it was in the way of the building.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Burbrink*) that Secondary approval be granted by the Plat Committee in accordance with the Staff Analysis. The motion was carried with a unanimous vote.

5. The application for Secondary approval of a Detailed Planned Unit Development known as **PARKWAY AT 17 DPUD – PHASE II**, for Parkwel Development, LLC (owner/developer) and Marilyn Bullard (owner) represented by Wightman Petrie, Inc., on property located on the Southeast corner of CR 17 and Verdant Drive in Jefferson Township, zoned DPUD-B-3, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081676*. According to Mr. Burrow, the staff feels there are too many unanswered questions that need to be addressed before the plat is adopted.

When asked if those questions have to do with the Tech Committee comments, Mr. Burrow said the engineering drawings have to be approved by the Highway Department and bonds need to be posted. Those were requirements of approval, but he said some of the more major issues are associated with the approvals from the DNR and Army Corp of Engineers.

For clarification, Mrs. Wolgamood asked if the last paragraph in the Staff Analysis about the suggestion of no building permits being issued until the drainage/retention areas have been constructed should be included as a condition if approved. Mr. Burrow said they should include all of the issues he has raised as conditions of approval. He explained that the Highway Department normally does not bond those types of improvements so they would have to have a drastic re-design if the Corp of Engineers and DNR do not approve the request, or FEMA approving the map amendment.

* *(It is noted that Mike Yoder arrived for the meeting at this time.)*

Peter Schnaars of Wightman Petrie, 4703 Chester Drive, Elkhart, was present representing Parkwel Development. He explained that a meeting was held with the County Highway Department on Monday and he understands all of the substantial issues relating to the improvements have been worked out to mutual satisfaction. They are updating the final plans and he said they will be submitted to the County on Monday with approval expected shortly after. He then clarified that the issues were related to the upgrade of the intersection at Verdant and to the conduit for fiber optics along there. He also said they expect to have a bond in place prior to the County Commissioners' meeting for approval of the final plat.

Mr. Schnaars went on to say that he thought the issues related to the ditch were addressed by Ken Jones at the last commissioners' meeting. He said they made clear at that meeting that the issues along Pine Creek were not part of the Parkway Phase II Development, but were actually part of the Parkwel Development, which is a future project they recently obtained zoning approval for. The two-stage ditch was an issue that was raised at the Tech Committee meeting several weeks ago and he thought it was understood that was not an issue with this development.

Mr. Schnaars said he's not sure how to address the construction of the retention pond. He doesn't believe they can build a road without having retention in place and expect to have it approved by the Highway Department so he doesn't understand why that should hold this up. He then requested that this Secondary go forward with those issues to be taken care of as they ordinarily would be during construction with approval by the Highway Department.

Mr. Doriot asked if the staff feels the roadway is a problem for them to get started and Mr. Burrow said yes. With the present designs and without the approvals from the appropriate agencies, he said they cannot be assured they will be able to construct it. He then explained that the Highway Department does not check compliance with the Corp of Engineers and FEMA requirements, and one of the requirements of the zoning ordinance is that they will need to secure an Improvement Location Permit (ILP) in order to move earth in the floodplain. He said he would not be able to sign-off on that until the Corp of Engineers, or more specifically FEMA, has modified the maps. If they move forward, the staff's concern is where the retention is going to go should FEMA or the Corp of Engineers deny this proposed design.

When Mr. Yoder asked why FEMA is involved in this, Mr. Burrow said the national flood insurance requires compliance with the regulations in order to have flood insurance in Elkhart County so the county has jurisdiction over any kind of earth moving in the floodplain. If Secondary is approved, he said they would be accepting that drainage easement in the floodway so it's the staff's opinion that it would be better to leave it on the table until those approvals have been granted.

Also present from Wightman Petrie, Inc. was Ken Jones. He explained that they have been working hard for approximately six months on the design of the drainage area and the two-stage ditch that will be built as part of Parkwel Phase II. He said they are dealing with DNR, IDEM,

Army Corp of Engineers, the Elkhart County Drainage Board, and the planning staff on those designs and permitted activity. This is one of many steps they have to go through and he doesn't think that approving this plat in the Secondary stage will bring any additional burden on the County or the Plan Commission. They understand they can't move forward until all of the permits are in place, and he said they don't doubt those permits will be granted, they just take time to process. If delayed today and the permit is issued next week, he said it's just another potential delay in their project that will cost them time and energy.

In further discussion, Mr. Burrow said our process is not the linking process associated with the other requirements; they are the minimal timeline that would be imposed on this development. He is concerned that the Plan Commission is essentially becoming a partner to this application to the DNR once they establish the easements on that property. By adopting the plat, he said the Plan Commission is stating that it is in compliance.

Mr. Yoder said compliance with the Plan Commission standards, but not DNR or FEMA and Mr. Jones said that is the way they see it. He admitted that the process is complicated and lengthy, and he feels it is pointless to delay this one step when it is one of many.

Mr. Jones went on to say that this allows them to move on to the County Commissioners with the final plat. They just reached an agreement with the Elkhart County Highway Department on Monday for all of the technical aspects of their improvements, which includes CR 17 and their new street, and they want to start construction on that as soon as possible. He then indicated that the final site plan for the first development will be filed in July to come back to the staff, which is a major project they cannot delay on.

Mrs. Wolgamood pointed out that the staff cannot issue a building permit until everything is in place and Mr. Jones said that is correct.

When asked if he sees any pitfalls, Mr. Kolbus said the Plat Committee has a limited role and they are looking at whether the conditions of Primary have been met as they apply to our ordinance. If the things from FEMA and everyone else is outside of the ordinance, he said the control there is what Mrs. Wolgamood just raised. The one risk on the developer is that they would have to come back and replat the development if there are any changes. It is his opinion that the staff's recommendation is following the procedures of our ordinance.

Mrs. Wolgamood asked the staff if this complies with the conditions of Primary. Mr. Burrow said it does not comply with the Zoning or the Subdivision Ordinances in relationship to the floodplain because the other permits have not been issued.

Mr. Doriot suggested approval of the Secondary with the condition that no construction shall start until proper permits from the permitting agencies referenced by the staff and any others are met. Mr. Jones was agreeable as long as that doesn't preclude their ability to start on the roads, sanitary sewer, water, and storm sewer.

Mr. Burrow then reiterated that he cannot issue the appropriate approvals in the floodway because the DNR must release that back to him. However, by going ahead with the motion, Mr. Kolbus indicated they can get started on things that are not within that contested area.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Yoder*) that the Plat Committee grant Secondary approval as presented with the condition that all of the permitting questions from all permitting agencies, including but not limited to, the DNR, Army Corp of Engineers, IDEM, and FEMA be granted before construction starts where that construction is in the jurisdictional areas. With a unanimous roll call vote, the motion was carried.

6. The application for Secondary approval of a two lot commercial subdivision known as **STARLITE COMMONS**, for Wal-Mart (owner/developer) represented by Woolpert, Inc., on property located on the East side of Ash Rd., 700 ft. South of Old US 20 and South side of Old US 20, 500 ft. East of Ash Rd. in Cleveland Township, zoned M-1, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081917*. He reported that this now meets the requirements of Primary approval so the staff recommends Secondary approval.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Holt/Doriot*) that based on the finding that this meets the requirements of the Subdivision Control Ordinance and conditions of Primary approval, Secondary approval is granted. The motion was carried with a unanimous vote.

7. The meeting was adjourned at 8:49 a.m.

Respectfully submitted,

Kathleen L. Wilson
Recording Secretary