

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 14<sup>TH</sup> DAY OF MAY 2009 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, Tom Holt, with the following members present: Steve Warner, Dennis Sharkey, Tom Lantz, Meg Wolgamood, and Jeff Burbrink. 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 (*Warner/Burbrink*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 9<sup>th</sup> day of April 2009 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Burbrink/Lantz*) that the legal advertisements, having been published on the 1<sup>st</sup> day of May 2009 in the Goshen News and on the 4<sup>th</sup> day of May 2009 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Sharkey/Burbrink*) 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 a zone map change from General Planned Unit Development-M-1 to a Detailed Planned Unit Development-M-1 to be known as **SYRACUSE NORTH BUSINESS PARK DPUD**, for the Town of Syracuse represented by Wightman Petrie, Inc., on property located on the South side of US 6, 800 ft. West of SR 13 and the West side of SR 13, 1,000 ft. South of US 6 in Benton Township, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20091453*.

Kenneth Jones, Jr. of Wightman Petrie, Inc., 4703 Chester Drive, Elkhart, was present representing the Town of Syracuse on behalf of this request.

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

Mr. Jones displayed a site plan (reduced copy in file for review) and described the location of the subject property and the roadways coming in from SR 13 and US 6. He explained that their Engineering Department is currently in the final design stage for the town to extend sewer and water services up to the entrance to the development. They have had preliminary discussions with INDOT and they are in agreement with the locations of their access points, but he said they will probably have to perform a Traffic Impact Study with them when they get to the final design phase for the interior of the project.

Mrs. Wolgamood asked if Lot 5 only accesses to US 6 and Mr. Jones said right now it does. When asked if there are plans for something else to go there, Mr. Jones said they would have to do a detailed site design in conjunction with Elkhart County Planning and INDOT, which he pointed out is also required for each individual site in the restrictive covenants document. According to Mr.

Jones, the geometry of the site made it hard unless they have a user that combines the lots. Then they would have to do a replat and come back before the Plan Commission.

For clarification, Mr. Sharkey asked if the town of Syracuse owns that property and Mr. Jones replied yes.

Present in opposition to this request was Jim Cripe, 72227 SR 13, Syracuse, whose property borders the southern part of the proposed industrial park. Some of the concerns he has are buffers, fencing, and stormwater drainage. He said a retention pond was put in on the other side of SR 13 from his home to drain the water from the previous RV factory and he was told it wouldn't affect his property at all. However, he said it has as there is more water in the swamp and it sits higher than it ever has. They put an overflow drain in that retention pond and the pond barely gets full and he said he now has a lot more storm water coming into his property. His question is where they are going to take the storm water.

Mr. Cripe was then asked to point out the location of his property on the aerial photo.

Also present was Donald Lines, 72255 SR 13, Syracuse. If they put a factory next to his property he said he wants dirt, fencing, and trees to keep the noise down because his house sits close to the property line.

In response, Mr. Jones said the storm water drainage on the site is very dynamic as it is a very hilly site. They have not done any detail on site design other than a very preliminary analysis because this is a preliminary DPUD approval. They will still have to come back for final DPUD approval that will include detailed road and utility plans for the site.

Mr. Jones reiterated that each individual site will be subject to the restrictive covenants as agreed upon between the developer and the Elkhart County Redevelopment Commission. Those include and address issues of storm water leaving the property. Basically, he said they have to contain their own storm water on each individual lot. Also part of that agreement is that outside storage is only going to be allowed in certain areas of the project, which are delineated on the Site Plan / Support Drawing. He pointed those areas out and said there is no outside storage visible from the highways. Fencing and detailed landscape for each individual site is also addressed. He said the town's goal for the site is a high degree of aesthetics, which is something he believes the Redevelopment Commission was in agreement with and why there is a long, detailed document that will govern that going forward.

Mr. Sharkey said the buffers, trees, and fencing will be addressed at the DPUD level of the project. When they design the individual sites, Mr. Jones said they have to go to the town for review and approval to make sure they comply with all of the covenants that are in place. After they obtain that approval, they will come back to the Planning staff to be reviewed for compliance. Mr. Jones said this is all being recorded against the land so it will run with the land like an easement or an encumbrance on the property.

If the neighbors have further questions, Mr. Sharkey said they can come back at the DPUD hearing to voice their concerns, but Mr. Jones said not on the individual lots. He did say, however, that when they come back with the final plat they can attend the Plat Committee meeting as that will include discussion on issues such as the interior road design. Mrs. Wolgamood pointed out that there is no notification to neighboring property owners for the Plat Committee so today's public hearing is their final opportunity to voice their concerns.

When a comment was made by Mr. Lantz that they need to hold their own water and plant some trees, Mr. Kolbus advised that they need to specify those issues today. Mr. Jones was not opposed to that as a condition of approval because he said it is already on the project. If the Board

would like, he said they can reiterate that today.

Mr. Burbrink said he too is concerned about Lot 5 and feels it will be affecting the intersection quite a bit. Mr. Jones said that is something else they can change today by combining it with the adjacent lot so it can access the new road.

Based on the rolling nature of this, Mr. Warner asked if they anticipate a lot of excavating being necessary for each lot. Mr. Jones said there will need to be a lot of dirt moved around depending on the size of the proposed building and parking area. He agreed it will make drainage difficult, but he said it can be designed and done right.

When asked how preliminary the covenants they submitted are, Mr. Jones said they have been approved by the Redevelopment Commission so they are not allowed to change them unless they go back to the Redevelopment Commission. Mrs. Wolgamood then asked if the covenants include the outside storage, buffering, and fencing. Mr. Jones said it includes the outside storage and landscaping requirements, but he's not sure if it includes fencing. It was then clarified that the landscape requirements were agreed to by the Economic Development Commission and the Town of Syracuse. When asked if they specifically talk about the perimeter in particular to the south where the remonstrators reside, Mr. Jones said he would have to look at the document closer to answer that question honestly. He then pointed out that they are inside a comprehensive plan that has been adopted by both counties (Elkhart and Kosciusko).

Mr. Burbrink asked if it would be possible for there to be a cross-access so Lot 5 could get over to that road. Mr. Jones said that would not be impossible, but it would need to be addressed with private agreements. There would have to be an easement shown on the final plat along with a maintenance agreement for that shared access.

Mr. Warner asked if they have considered interior access for the entire area with one access point. Mr. Jones said they are proposing two interior roads to provide access to all of the interior lots with the exception of Lot 5 due to the geometry of the parcel. He then reiterated that they could combine Lot 5 with Lot 2 or Lot 3, or that all three lots could be combined together. In the event they had a user who didn't want that much land, he said it would then have to be re-addressed by coming back to the Plan Commission.

Mrs. Wolgamood asked if the document will be recorded with the lots shown and Mr. Jones said the final development plan associated with the DPUD will show the lots, any other easements, and road right-of-way that is being dedicated.

According to Mr. Jones, there was a concern from the Highway Department about sight distances on SR 13 because the entrance is at the top of a hill. He said they performed an analysis on that and gave that information to the Highway Department, and they also had INDOT review the analysis and they said it was acceptable.

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

Mr. Sharkey asked if that road comes out right across the street from a residential property on SR 13 and Mr. Jones said the driveway to that residence is a little south of their entrance. What's across the street, he said, is the same zoning as shown in the comprehensive plan.

Mr. Holt said he does not feel there is enough information about buffers in their narrative and he has more questions about drainage.

When Mr. Sharkey asked if the Redevelopment Commission addressed drainage and buffers, Mr. Jones acknowledged that they have to contain the storm water drainage. Right now he is resting on the extensive landscaping requirements to protect them in terms of keeping aesthetics

nice. He then pointed out that they have to go to two different entities to have the individual site plans reviewed once they have buyers and they want to start construction. At this point, he said the property could set empty for two years or longer, but there will be utilities installed to the property and their goal is to put that to bid yet this year.

The only thing Mr. Holt said he sees about buffering is in reference to controlling it with outside storage, which can be unsightly. Mr. Jones said the areas where there is outside storage is where it's important to be screened properly. He then clarified that the future land use map in the comprehensive plan shows the area to the west to be the same zoning they are and the south to be single-family residential.

As a condition, Mr. Kolbus said they could require buffering along the entirety of the southern border using their language "by landscape features (either existing or constructed) that provide a minimum visual interruption of 75% of the interior of the project". Mr. Jones felt that made sense because he said the southern portion is where the Redevelopment Commission said outside storage is okay. Mr. Kolbus then clarified that the buffer needs to go all the way to SR 13 because that five-acre parcel is owned by one of the neighbors present today. Mr. Jones said they will not be allowing outside storage in that area, but Mr. Kolbus thinks Mr. Lines was also concerned about seeing a large factory there.

With regards to Lot 5 having no-access from US 6, Mr. Jones asked if they would allow the option of serving Lot 5 by a shared access easement along a common lot line and the Board indicated that would be no issue. In reviewing the final plat, Mr. Jones said he anticipates that they will be asked to put non-access easements along Lot 8, Lot 7, and Lot 2 where it fronts the state highway, which is acceptable to them.

Mr. Jones indicated they would have no objection to planting trees along the entire southern border. In discussing the type of trees to provide the best barrier, he said they will make sure they satisfy the 75% requirement if that is imposed.

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

1. No direct access to US 6 from any of the exterior lots.
2. The entire southern border from SR 13 to the southwest corner of Lot 12 shall be buffered from view to the adjacent property to the south by landscape features (either existing or constructed) that provides a minimum visual interruption of 75% of the interior of the project.
3. The covenants and restrictions to be attached as a condition of approval.

The motion was carried with a unanimous roll call vote.

6. There were no audience items.

7. At this time, Mr. Nemeth presented further information with regards to ***Electronic Message Boards***. In March, he said they did preference surveys based on his research and he asked board members which policy direction they would like to go. He presented the survey results in April along with a Draft ordinance that reflects the survey preference. He explained that the ordinance is proposed to be part of the Sign Ordinance, and there are seven reasons stated why they want to have electronic message board rules with basic minimum standards.

Mr. Nemeth went on to say that they are currently recommending the message is shown all at once, it is instantaneous, it remains static for 10 seconds, there is no motion, and the intensity is reduced to 500 NIT's at night. They are also recommending that electronic message boards be permitted in the B-3 zone, industrial zone, district parks, and PUD's with Plan Commission approval.

At the April meeting, Mr. Nemeth said there were a couple of ideas that would modify the ordinance. There was one suggestion to reduce the intensity to 500 NIT, but another idea was if they wanted to have two sets of NIT light standards and whether they wanted to allow them to have a brighter NIT at night when they are adjacent to commercial property. Instead of halting the scrawling and animation, he said another idea was to allow a percentage of the allowable sign to be scrawling or animation. With regards to enforcement, if the sign looks like it is excessively bright at night, the staff suggested they put the burden on the owner by having the owner show with a light engineer that it is meeting the code standards.

Mr. Nemeth said they contacted Burkhart and they do have a sample sign display they take to different communities. They indicated they could bring in their display for a workshop if we could give them a week's notice. He was asked if he talked with any other sign company other than Burkhart and Mr. Nemeth said no. He said there are not that many sign companies in the area, and Mr. Burrow added that Burkhart was the only sign company present at the focus group meetings for the kick-off of the zoning ordinance rewrite.

Mr. Kolbus asked if Burkhart has seen the draft ordinance and Mr. Nemeth said not yet, but the regulations are very similar to what they proposed.

Mr. Sharkey asked if existing signs would be grandfathered in once an ordinance is in place. Mr. Nemeth said his understanding is that the message board can stay, but they will have to conform to whatever regulations are passed by the Commissioners. Basically, he said it would be the rate of change for the existing signs, but if the sign is in a different zone, he thinks they will be grandfathered. They are not seeking to remove the signs from the past, it is more forward looking, but he said he would discuss that further with Code Enforcement.

Mr. Miller wondered if the existing signs can conform because he's not sure you can dial down the brightness; however, it's Mr. Holt's understanding that they use a computer and the software allows you to make changes. Mr. Nemeth said it might cost more to do the light reduction, but for new applicants, that will be part of the cost of doing the business.

Mr. Warner asked if these regulations would eliminate the TV screen type of signage that exists on SR 23 in Mishawka. Mr. Nemeth said there is nothing in the regulations to limit the size of a message board. He said it addresses more the location and rate of change. Mr. Holt noted that the sign on SR 23 is more of an advertising billboard and it was clarified that they would be required to obtain a zoning clearance and building permit. Mr. Burrow said the only difference is that an advertising sign, which is off-premise, has to be 500 ft. away from a public park and 75 ft. away from a residential property. When asked if there are size restrictions, he said the size cannot exceed three times the lineal feet of frontage of the property.

Mrs. Wolgamood commented that she would like to see the entire issue of signage addressed in the zoning ordinance rewrite; however, she agrees they should move forward with an amendment so it's not delayed another year until the new ordinance is adopted because there are so many issues.

When asked about scrolling, Mr. Nemeth clarified that the draft prohibits scrolling or animation.

If the Board has a concern about message boards, Mr. Kolbus said he feels they should move forward with a public hearing next month and then it will be addressed more completely in the new ordinance. When asked if they need a motion, Mr. Kolbus said yes because it's a Plan Commission action to petition for a change in the zoning ordinance.

Mr. Miller moved to hold this ordinance change as a public hearing item at the June 11, 2009, Plan Commission meeting. The motion was seconded by Mr. Warner and carried with a unanimous vote.

8. With regards to the *Rules of Procedure*, Mr. Burrow said the staff has decided to bring all of the subdivision forms to the Board at one time. There are currently only two or three of approximately eight forms they want to present completed so he asked that this staff item be removed from the agenda at this time.

9. Mr. Kanney read and submitted to the Board a letter from Derek Spier of Abonmarche Consultants [attached to file as Staff Exhibit #1] on behalf of the owner/developer, Place Realty, Inc. This letter requests a two-year extension of the approved Primary plat for *Prairieview Farm, Phase II*, which is located on the North extension of Maple Isle Drive, North of Prairieview Farms Blvd. and West of CR 5 in Cleveland Township.

Mr. Kanney recalled the issue at Primary was whether they required them to connect to the mobile home subdivision adjacent to the north. The developer didn't want to connect, but they were required to and he said there really has been no issues since. The first phase was developed in 2007 and they were trying to get into this phase, but technically he said their Primary approval has lapsed and they will have to start over again without approval of an extension from this Board.

Mrs. Wolgamood moved that the Advisory Plan Commission extend Primary approval for an additional two years. Mr. Sharkey seconded the motion, which carried unanimously.

10. In presenting several updates to the Board, Mr. Watkins said they are going to have a short timeframe for the Board to consider the 2010 budgets. He explained that the paperwork is not coming out until June, and they have been requested to cut \$58,000 out of both budgets. Although this will be a challenge, he said he thinks they can do it. He also said he has been working with the Commissioners and Personnel Department on possibly reconfiguring Mr. Harrell's job into a Zoning Administrator and a Building Official, which he sees saving them some money and efficiencies. He then indicated he will email the budgets to the board members as soon as he has one because they will need to act on them in June.

With regards to the Blue Prince software, he reported that the staff is currently testing the various types of permits and applications, which he feels is going well. The preliminary "go-live" date is scheduled for June 8 for the internal side of this project, and the external side is scheduled for June 22; however, he said that may be delayed until we are more confident on what's going on internally.

Mr. Watkins said he received the summary of the surveys taken during the interview process for the zoning ordinance rewrite, but he has not had a chance to review them in detail. In briefly reviewing them, with a scoring range of 1 to 5, he said it appears we are fairly consistent with an average being around 3.5. This indicates to him that we are not saying we need to be real restrictive, but we do need to have an ordinance and it needs to be at least a moderate concern for each of those items surveyed.

He also reported that six people went to Benton County to tour the Wind Farm and he indicated that a report will be prepared for the Board to review at a later time. While they were there, they also visited the Nanotechnology Center, which he said is very impressive.

With regards to the Steering Committee for the zoning ordinance rewrite, Mr. Watkins said he has five board members, four staff members, and four individuals from the community. They are anticipating that Draft 1 will be ready for the committee's review sometime mid-June.

When Mr. Sharkey asked if it is legal to have five board members on the committee, Mr. Kolbus said he believes it is an issue, but he would research that further. He said they may have to do public notice of the meetings.

Also reported was that he just learned the department received another \$400,000.00 Brownfield grant from the EPA yesterday. Since a Wisconsin company is their contractor, he said one of his goals is to make sure that it is spelled out in the grant that they are keeping some of that money here. He said there are things on education they can contract here, and apparently Symbiont actually uses one of the local environmental consultants to do some of the work.

In further discussion, Mr. Miller said he recently drove by Forest River north of Millersburg and there is no buffering being put up. He is reluctant to say anything about it because of the current economy, but on the other hand, he said they were assured this would happen. Mr. Burrow said the issue of the parking lot and access was taken care of, but he's not sure about the other so he will look into that. Mr. Miller said he would be disappointed in the Plan Commission if he were one of the neighbors who came in that they assured this would take place.

The final discussion was in regards to workshop attendance by board members, which Mr. Watkins said has declined. He asked the Board if they would like to consider having quarterly workshops unless there is an issue that comes up they need to discuss and both Mrs. Wolgamood and Mr. Sharkey were in agreement. If an issue does come up, Mrs. Wolgamood also suggested they could discuss it as a staff item at the Plan Commission meeting when there is a light agenda. She said they could inform the Board of Zoning Appeals members when there is an item on the agenda that they will be discussing at the Plan Commission meeting.

After further discussion, it was the consensus of the Board to hold quarterly Plan Commission workshops.

11. The meeting was adjourned at 10:01 a.m.

Respectfully submitted,

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Kathleen L. Wilson, Recording Secretary

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Tom Holt, Chairman