

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 8TH DAY OF OCTOBER 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, Tom Lantz, Roger Miller, Meg Wolgamood, Dennis Sharkey, and Mike Yoder. Absent were Jeff Burbrink and Blake Doriot. Staff members present were: Robert Watkins, Plan Director; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Yoder/Wolgamood*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10th day of September 2009 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Wolgamood/Warner*) that the legal advertisements, having been published on the 26th day of September 2009 in the Goshen News and on the 28th day of September 2009 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Miller/Lantz*) 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 R-2 to M-2 for ***Bessinger Holdings, LLC*** represented by Brads-Ko Engineering & Surveying, on property located on the Northeast corner of Country Club Drive and Lilac Street in Osolo Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #C&E Excavating-090831-1*.

Mr. Yoder asked if there would be adequate buffering for the north residential neighbors. Mr. Nemeth stated it would be adequate because there exists a high opaque, screened fence. He then referred to a photo of the site that was included in the Boards' packets to illustrate the location of the fence.

The representative for the petitioner, Bessinger Holdings, LLC was Rick Pharis, of Brads-Ko Engineering & Surveying, 1009 S. 9th St., Goshen. He stated that Mr. Bessinger owned an excavation company and asphalt recycling center and he was interested in expanding his business. He reassured the board that the existing fence would be adequate to separate their operation from the surrounding facilities. Mr. Bessinger had paved his road to deter any dust and would comply with any requests made.

Present in support of this request was Jim Skillen, 306 Krider Drive, Middlebury, who is a real estate broker and a member of the Elkhart County Redevelopment Commission. He said this is an area the Redevelopment Commission has been discussing. It has a variety of 'spot zoning', which he would like to see eliminated. He also indicated that it is a high crime neighborhood and not well served. He felt they would be moving forward in the right direction if this rezoning was

approved as some of the old conditions would be improved. He said some of the County owned streets had not been built in that area. He felt this neighborhood needed more consistent zoning.

A motion was made and seconded (Warner/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 (Miller/Sharkey) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis. With a unanimous roll call vote, the motion was carried.

6. The application for a zone map change from R-2 to M-2 for ***Bessinger Holdings, LLC*** represented by Brads-Ko Engineering & Surveying, on property located on the Southeast corner of North Park Avenue and Adams Street in Osolo Township, was presented at this time.

Mr. Nemeth presented the Staff Report, which is attached for review as *Case #C&E Excavating-090831-2*. He then submitted and presented an amended Staff Analysis [*attached t file as Staff Exhibit #1*]. According to Mr. Nemeth, there are four adjacent homes that need protection from possible dust.

Mr. Miller was concerned about gravel dust, but he said a fence may be adequate for protection.

Mrs. Wolgamood asked how far away the sewer line was located. Rick Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th St., Goshen, who was present representing the petitioner, said it may be 1,000 to 2,000 feet away.

Also present was the petitioner, Ed Bessinger of C & E Excavating, 53767 CR 9, Elkhart, who said he wants to expand the business. He stated he has actively been filling some of the property with sand and plans to cap it with asphalt milling for dust control. He had put up a 10 ft. high fence with screening. He wants to actively recycle in the community and people have commented that he has the cleanest yard in the community. The asphalt and concrete would be recycled and used in parking lots, alleys, sidewalks, etc. He mentioned Reith-Riley is an active customer of his. The material they would provide would be recycled and used as pavement at retail parking lots or industrial driveways, etc. He is also recycling brick, sorting it and cleaning it to be used for street pavements, sidewalks, driveways, etc. He has a trammel screen set up to take top soil in and take out product that is undesirable. He wants to continue to recycle and then sell product from the material because there is a lot of recyclable market interest.

Mr. Miller asked what kind of machinery would be used. Mr. Bessinger explained that it is nothing like the mega crusher, but it is a small crusher. They will have a well, would use water to control dust, and use asphalt millings on the east side where new zoning will be. The product will be hard surfaced, and he will be able to control water and dust. High fencing would be provided and he plans to put up lighting. He said he would like to see Adams Street paved and Lilac Street closed eventually.

Mr. Sharkey asked if noise would be an issue. Mr. Bessinger did not think noise would be an issue as he planned to recycle on the south end of the property. He believed the northwest area would be asphalted or left as is, and he plans an office on that side.

When Mrs. Wolgamood asked how he felt about the written commitment recommended by the staff, Mr. Bessinger said he has already purchased the gates for a fence and he wants to proceed as weather allows. Mrs. Wolgamood asked if he thought it would be before snowfall. Mr. Bessinger stated that he needed to fill the area with sand as it is very low and swampy in some

areas. He also needs to cap it with 8" asphalt milling before the fence could be installed and he needed to scrape out material on the property. The land is very wet and trash needs to be cleared to clean it out. He felt within 12 months would be enough time. Mrs. Wolgamood asked who owned the property to the east 6 lots. He did not know, but he plans to pursue lots that become available for sale.

Mr. Bessinger explained that the elevation on a part of North Park drops almost 4 ft. to County Club Dr. and he will fill that area. He mentioned cutting retentions and wants a closed gate and lock on Forest Hill. He planned to talk to Jeff Taylor at the Highway Department about Adams Street.

Mr. Miller asked how much traffic there would be and whether he owned his own trucks. Mr. Bessinger said he does own his own trucks and there would be some traffic from customers, such as Reith-Riley, but it depends on the projects.

Mr. Yoder said this change does not increase the amount of business now. Mr. Bessinger said there would be no recycling on the lots and he planned to have a gate at the south end of Adams Street.

Jim Skillen, 306 Krider Drive, Middlebury, an industrial real estate broker, was present in favor of this rezoning. He stated he has had a building for sale and on the market for 4 ½ years. They are asking \$14 per square foot and he said the access from Forest Hill terminates. This road is bad and needs much improvement, and he pointed out where Adams terminates. He felt the property may have sold 4 years ago if it had been improved. He went on to point out other businesses in the area and felt if improved it would improve public safety in the area. If woods were being torn down it would create a new entrance to the properties. It could have a dynamic influence on this area. Right now his property is inaccessible. He felt this rezoning would be an opportunity.

Benny Russo, 25600 CR 4, Elkhart, felt the worse thing to happen would be to have a building catch fire and there would not be access for emergency vehicles. He said the residents would like to see it opened because of that issue.

Mr. Yoder asked how residents felt in that area. Mr. Russo said a lot of people in the area feel it is trashy. He then complimented Mr. Bessinger for removing some of it. He reiterated that there are no hydrants back there now and it would be helpful to emergency vehicles. He also stated at Model and Johnson Streets there are a lot of accidents. He thought if they could turn off Woodlawn it would help.

Mr. Bessinger said the small crusher they have on the property now is movable. It is self-contained on tracks, and he likes the size because it makes a better product. He felt it is best to recycle products, rather than put it in a landfill. He then submitted a folder of various photos of the property to illustrate the type of machinery used, the stockpiles of material, and the screening of the property *[attached to file as Petitioner Exhibit #1]*.

A motion was made and seconded (Yoder/Sharkey) that the public hearing be closed.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (Wolgamood/Lantz) the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from R-2 to M-2 be approved in accordance with the revised Staff Analysis with the following written commitment as agreed to by the petitioner and amended by the Board:

1. Install a high, opaque fence adjacent to the north, east and west property lines of the petition area by the end of April 2010. This will provide a screened visual buffer similar

to the fence that exists between North Park Avenue and Forest Hill Avenue. This buffer may be removed if the adjacent property is rezoned to a non-residential zoning district.

The motion was carried with a unanimous roll call vote.

7. There were no audience items.

8. The first of three staff/board items presented by Mr. Watkins concerned VIM. He explained that he had been working on a letter for this recycling center to remind them that they had requirements they needed to fulfill by the end of September. He also made a point to remind them that the Plan Commission will be conducting a public hearing in December to determine what happens with their M-2 DPUD.

According to Mr. Watkins, there were 12 requirements listed under one item and they included the berms, removing the 'C' pile, and a new driveway, even though the ordinance only says they have to get a driveway permit. They did not get a driveway permit, but had it started when it was reviewed in February. He said they apparently did not follow through with it; however, he did not see where the ordinance said they actually had to install the driveway. He mentioned that there is also a deadline for outside grinding, which may have come and gone. Mr. Watkins said he just wanted to give Mr. Ken Will an opportunity to give his status report, which is required by December 1st, and felt a letter to remind him might be helpful. He said he just outlined the requirements of the DPUD he needs to complete.

Mr. Kolbus said the review and Mr. Will's status report is required under the ordinance. Mr. Watkins noted that our status report was done in February after visiting the site, but September 8th was the one year approval date, so a lot of the requirements were supposed to have been completed.

Mrs. Wolgamood asked if he had visited the site recently, but Mr. Watkins said he had not, he just drove by. He said he has verified that the items in the letter have not been done. Mr. Watkins spoke with a person from IDEM yesterday who is one of the individuals overseeing the removal of the 'C' pile. The gentleman from IDEM indicated that it was around 50% done and it would be completed by end of year, which was one of the DPUD requirements. The requirement remaining an issue is the two buffering mounds. One thing was that if the testing indicated it was ok to stay it could stay. He said he had not seen the testing results, but IDEM said it had not been approved to do that. Landscaping of those mounds was also required. He just wanted to bring this item to the Board's attention and said a hearing would be scheduled in December. He stated he would distribute a copy of the letter to the Board when completed.

9. Mr. Watkins then gave a brief report on the status of Mark Kanney, the planning manager.

10. Mr. Watkins recounted a tour that he, Jeff Burbrink, Mike Yoder, Robert Nemeth, and one of the building inspectors were given by the Extension Director and his assistant of the Benton County Wind Farm in May.

He explained that there are three types of wind turbines being used in Benton County. One of them was called a Clipper, which generates 2.5 mega watts of energy. There are 40 to date, and each of the Clipper's has 3 generators in it. There is also Vestas, which is a 1.6 mega watt made in Denmark. The other type was the GE which is a 1.5 mega watt. Mr. Watkins then distributed a brochure that featured some of the turbine blades they sell coming into the port for delivery to one of the wind farms.

Mr. Watkins stated this is a new wind farm located closer to White County than Benton County that will encompass 26,000 acres and have 600 more Vestas wind turbines. The wind turbines cost approximately \$1.5 million each and there are 220 of them at the Fowler Ridge Farm where they visited. By 2018, he said they estimate there will be about \$3.7 million coming into the county from taxes, and they are collecting building and development fees as well. The total in place at this time is 1750 mega watts. They go from DC to AC within the tower, so when it is wired out of there it goes into the grid.

Mr. Watkins went on to say that it is all leased property or an access agreement where the turbine stands. The turbine lease is usually for a 20 year term, renewable for 10 years. The rows are easements, and the isolation distances on each of them are 1.1 to 1.5 times the height. The GE's are all operated from Houston, and the Vestas and Clippers are operated from Denver. They are sophisticated units that sense the wind, they can tilt the blades, they can break the blades, and all are remotely controlled from Oregon or Denver.

Mr. Watkins talked about the economics, tourism and the workers, and property taxes. He felt the employees kept the local businesses going. He talked about how they set the standard for how this is done. The turbine and the footprint are industrial. The surrounding ground is A-1 and the turbine itself is taxed as personal property.

The White and Clinton County turbines are being developed by Orion and Duke Energy Companies. Dominion is primarily responsible for Fowler Ridge. They ask for a 10 year tax abatement on these turbines and pay the County \$1,000,000 over three years. Fowler Ridge asked for a 10 year abatement, which was \$4,000,000 over four years paid to the County and they paid them the cash to purchase the abatement. There are 370 owners that are splitting \$2,000,000 a year in lease payments. There is a red light on top and the flicker rate, the rate that it turns, is about 15 revolutions per minute. People do not have an issue with that type of flicker rate. Mr. Watkins said they stood right next to the turbines and they could not be heard. There was an 8 or 9 mile an hour wind and you could hear it blowing, but they could not hear the turbines. They are collecting a \$799 impact fee and all the farmers have a five year Compaction and Drainage Agreement.

Mr. Warner asked how much concrete they used in the base of each of them. Mr. Watkins thought it was around 10 or 13 truckloads.

Mr. Watkins said they could see the turbines almost 10 miles away. He mentioned that they have a meteorological tower at this location also that monitors the operation.

Mr. Miller asked why they chose this area. Mr. Watkins suggested it may have been because it is flat with fairly consistent winds and there are only a few landowners, but each owns a great deal of land. He said there has been no development in this area for years. There are 26,000 continuous acres and the population of the county is around 15,000.

Mr. Yoder said this is one of the few places in Indiana that have prevailing winds that work for this and the wind speed is consistent. Mr. Watkins pointed out that they are variable winds so these units automatically turn toward the wind. He said in Denver they are in straight lines, because they have straight line winds constantly out of the same area. He noted that on their site they are all offset to prevent possible wind interference.

During a video presentation, the Benton County Extension Director gave an overview of how wind power has progressed in their county. At the conclusion of the video, Mr. Watkins said the Extension Director had gone on to say that they had not had any bat kills because of the configuration of the blade.

Mr. Yoder recalled that if they do have a bird kill it is not because it gets hit by the blades,

but when the bird goes through the blades there is enough vacuum on the back side that it suffocates them. Mr. Kolbus said there are three reasons they go at that speed and one was the bird and bat kill, the flicker rate and the birds have fins on the end of them and that fin breaks up behind the blade.

Mr. Warner said if the blades are running at that same speed when the wind is much higher, how do they take advantage of that wind velocity. Mr. Watkins stated that the tip of the blade runs at around 123 miles an hour at 15 revolutions a minute. Mrs. Wolgamood asked how tall they were and Mr. Watkins told her they were about 400 ft. to the tip of the blade. Mr. Yoder said the unit on top is 20 ft. high. Mr. Kolbus said they weighed 20 tons.

Mr. Watkins pointed out that what was interesting about the cell is the different configurations and how they change the configurations from the unit on top to the ventilation at the bottom of the tower to control noise. He said the noise is all happening inside the cell of the generators.

Mr. Miller stated on a regular power plant there are different calls for power; for instance, peak times they turn the power up and the low times they turn the power down. He asked how that could be regulated on these turbines. Mr. Watkins explained that the power is being shipped to the southern states and the New England states, none of it is being shipped here. They stated it was put into inventory.

After they toured the wind farm, Mr. Watkins said they went to the Nano Technology Center at Purdue. He said it was a very interesting tour and there was a picture there that looked like a capsule and the capsule was microscopic in size. It had the potential to carry a drug and it was made out of a material that was attracted to an enzyme from a tumor. When injected, the capsules found their way and lodged into the tumor and the material broke it down releasing the product straight into the tumor. He said they found it to be a very informative day.

Mr. Watkins reported that they are continuing work on the zoning ordinance and the last section to be added will be on wind power. Therefore, he wanted to be certain that the Plan Commission was well informed on wind turbines.

Mr. Yoder asked if anyone had heard anything about the Lagrange County wind farm and whether the units were smaller than the units viewed today. Mr. Holt said if they are the same size units, they are not installing as many as they had seen. Mr. Miller said that he had seen larger units out west and those units made more noise.

Mr. Miller asked if the companies that put the generators up also built the configuration to get the power to the grid. He also questioned if it was below ground or above ground. Mr. Watkins said it was mostly below ground and there were several spots in the County where it comes up and runs to the grid. Mr. Yoder mentioned that there were huge copper cables in the ground and Mr. Watkins recalled they were \$1,000,000 a mile.

Mr. Sharkey noticed the turbines were built and shipped out of Denmark. Mr. Yoder said there is a movement to try to get the turbines built at some location in northern Indiana. Mr. Kolbus pointed out that an article from the brochure stated, "The decision to produce wind turbines happened during the 1970's oil crisis." He said that our country counts on oil more than any other country and we still do not have anyone building them in this country which is amazing. He felt it would be a great opportunity.

11. A motion was made and seconded (*Sharkey/Wolgamood*) to adjourn the meeting which

carried unanimously.

Respectfully submitted,

Sandra Herrli, Recording Secretary

Tom Holt, Chairman