

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 11<sup>TH</sup> DAY OF MARCH 2010 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, Meg Wolgamood, Blake Doriot, Roger Miller, Tom Lantz, Jeff Burbrink, and Mike Yoder. Staff members present were: Robert Watkins, Plan Director; Duane Burrow, Senior Planner; Robert Nemeth, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Yoder/Lantz*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 11<sup>th</sup> day of February 2010 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Warner/Lantz*) that the legal advertisements, having been published on the 26<sup>th</sup> day of February 2010 in the Goshen News and the 1<sup>st</sup> day of March 2010 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Miller/Doriot*) 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 Conditional Industrial Unit Development in an M-2 zone for metal recycling, for ***Omnisource Corporation*** represented by Brads-Ko Engineering & Surveying, on property located on the East side of SR 19, 1,575 ft. North of CR 24, common address of 58282 SR 19 in Concord Township, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #58282SR 19-100201-1*. Submitted to the Board was a letter dated March 10, 2010, received from Thomas Niezer and Joshua Neal, the legal representatives of Omnisource Corporation [*Petitioner's Exhibit #1*], which he said addresses Condition #1 in the Staff Report about their due diligence. Also submitted was a copy of the petitioner's PowerPoint presentation [*Petitioner's Exhibit #2*].

According to Mr. Burrow, the letter addresses issues associated with environmental contamination as requested by the staff and Omnisource indicates they will be in compliance with all environmental regulations upon developing this site. If the Board recommends approval of this request, he asked that they reference the letter as part of the petitioner's representations in the approval. When asked if items 1 through 6 should all be included, he said yes, but more specifically the last three items as the first three are more of a historical review. He then explained that they have installed a berm and a ten-foot fence around most of the property, which would address the issue of blocking all view.

When the current use of the property was questioned, Mr. Burrow said they are storing large metal bins for holding metal recyclables. He indicated this has been the use of the property for the last three or four years because it is shown on the aerial photos.

Mrs. Wolgamood pointed out that this is in the area of influence of Elkhart city and she asked if this was sent to them to review. Mr. Burrow explained that area of influence only exists if

they are willing to adopt a comprehensive plan that includes an area of influence, which we do not have with the city of Elkhart. However, he did say the Compact Agreement (sewer and water) takes care of this.

Present on behalf of this request was Tom Niezer, attorney with Barrett & McNagny, 215 East Berry Street, Fort Wayne, representing Omnisource Corporation. He noted that Rick Pharis with Brads-Ko Engineering & Surveying, their site engineer, is also present. Also in the audience from Omnisource Corporation is Ben Eisbart, vice-president, Brian Winters, the environmental engineer for the project, and Dan Muhic, their project engineer. He explained that he will go through a PowerPoint presentation and then Mr. Pharis will address some site design and landscaping issues that he has been working on with the staff for the past two months. Mr. Eisbart will then address the general conduct of the operation that will be occurring on this site.

For clarification, Mr. Kolbus asked if the letter dated March 10, 2010, and the packet of materials (PowerPoint presentation) are in fact petitioner's exhibits. Mr. Niezer said that is correct and he asked that they be incorporated into the record for this public hearing.

Mr. Niezer began by giving a brief background on OmniSource Corporation. The company headquartered out of Fort Wayne and it was founded over 65 years ago. An immigrant from Russia started his own business dealing in scrap metals. Omnisource is one of the largest processors and distributors of scrap and secondary metals. They currently have over 70 facilities in the United States. Omnisource was acquired a few years ago by Steel Dynamics.

The business operations include the collecting, handling, and reselling of scrap metal, which will be part of the process for this retail recycling facility being proposed for this site. Omnisource has consistently been at the top of business for years in innovation and growth. Mr. Niezer began by giving a background on OmniSource. The company employees over 2,500 people nationally. The proposed hours of operation for this site will be 8:00 a.m. to 5:00 p.m., Monday through Friday, 8:00 a.m. to 12:00 p.m. on Saturday, and Sundays being closed. There will be approximately 176 trips to and from the site each day, most of which will consist of the retail for commercial and industrial sellers delivering recyclable materials to the subject site. All of this has been discussed with the planning staff and they believe the access of the site was designed very well for the level of traffic that will be coming to and from the site on a weekly basis.

The project impact will have roughly three to five individuals being employed at this site. The payroll will be between \$100,000 and \$170,000 per year. The capital investment will represent between \$350,000 and \$900,000 of both building as well as equipment to handle the operation.

Mr. Niezer explained that recycling offers sustainable solutions for balancing economic growth and environmental stewardship. He indicated recycling does stimulate economies in rural towns and major cities, and it does reduce greenhouse gas emissions. He also feels this will create work for the local workforce.

The proposed site has been vacant for a number of years. The property is 14 acres and it works very well for the type of use that is being proposed. The entire 14 acres is acting as a good buffer because they reach any surrounding neighbors or areas. The conditional industrial unit will be centered and located in the middle of the site with the surrounding area being used for storage.

On this site, there will be no processing of metals performed. The equipment will consist of a crane, a loader, forklifts, a drive-on scale, totes, bins and roll-off containers used to temporary storage of recyclable materials. From time to time, they will have a mechanical flattener for automobiles on site. When individuals bring an automobile in for recycling, although they don't anticipate this happen on a frequent basis, the vehicle needs to be flattened before it is taken off-

site. He asked that this be addressed in the conditions of support given to the Board by the staff.

Mr. Niezer explained there will be a pedestal style sign installed on SR 19 and there will be very low impact site lighting. The lights on the proposed building will be very low voltage and there will be no flood lighting. There will not be any large light poles installed on the site as they are not necessary for the conduct of this operation. The construction will incur in two phases. The first phase will be a temporary building and portable scales will be installed for receiving and handling recycling materials. During that time, the permanent 5,000 sq. ft. building, non-portable scales and site buffering will be installed. Upon proper approvals, the company's timeframe for doing this would be to start on the project in late spring and have it up and running by the summer of 2010. The site is surrounded by a number of mixed uses on all sides. He feels the magnitude of the site would really serve this type of business well.

Mr. Niezer explained that Omnisource recognizes that the previous owner, Sturgis Iron & Metal, had issues in respect to how the site was handled. The way Sturgis Iron & Metal conducted their business operations are not in any way related to how Omnisource conducts its business operations. He feels it would be a mistake to suggest that the way Sturgis Iron & Metal conducted their business is the same way Omnisource will conduct their business. There are a number of best management practices that they have already implemented for all the sites that Omnisource runs and operates. These practices include using the appropriate equipment to remove fluids or environmental hazards that happen to come onto the site and having those properly disposed of and identified. Omnisource will provide education programs for their suppliers and there will be inspection of materials upon receipt for identification of possible contaminants. They will be quarantining those areas as necessary until those contaminants are removed from the site. Appropriate stormwater controls have been implemented to prevent contamination. As with all of Omnisource's sites, they will be meeting the requirements for all of the federal and state permits.

At this time, Mr. Niezer reviewed photos that he displayed, which are contained in the PowerPoint presentation that was previously submitted (Petitioner Exhibit #2). He indicated the photos show examples of what the facility will look like and how it is maintained. This type of business will not be a salvage yard or a junk yard. The recycled aluminum doesn't have many uses other than going to the steel mill.

The staff addressed all of the legal standards and the petitioner's representative believes they have complied with the five statutory requirements. Omnisource believes they have satisfied Condition #1 with the letter they submitted in response to the staff report. On Condition #2, Mr. Niezer asked that be modified to eliminate prohibition on crushing if the Board sends this to the Commissioner's with a positive recommendation. He reiterated that there will be mechanical flattening of automobiles from time to time.

Mr. Doriot asked when the other Goshen facility was opened and Mr. Niezer said 1995. He also asked if SDI operates the Butler Steel Mill and Mr. Niezer said yes. Mr. Doriot indicated he has a brother who is a material handler for SDI, but Mr. Kolbus indicated there is no conflict.

The number of flattened cars to be stored on site was questioned by the Board and Mr. Niezer indicated Mr. Eisbart will be addressing that issue. There won't be a large number of flattened cars on site because they will run into height issues and sight visibility issues.

Mrs. Wolgamood asked if vehicles are flattened at any of the other business locations and Mr. Niezer said yes. He also indicated they also shred vehicles at the other facilities, but they won't be doing that at this location.

Next to address the Board was Rick Pharis of Brads-Ko Engineering & Surveying, 1009

S. 9<sup>th</sup> St., Goshen. Mr. Pharis explained this site will be connected to Elkhart City sewer and water and the soils on the site are mapped as Coloma, which has a seasonal high water table of greater than six feet. There are three different locations for on-site storm drainage. Area number one is along SR 19 and the storage required is approximately at 1.6 acre feed. Area number two, which is along the north line at the top of the site, has a requirement of a 1.05 acre feed. Lastly, area number three is in the middle of the site to the east of the building, has a storage requirement of 1.06 acre, but they would be providing 1.112. They would be providing an excess of the required amount for a 100 year storm.

The northbound and southbound traffic on SR 19 is currently 12,000 cars per day. The Omnisource site expects to generate about six semis and approximately 80 vehicles such as pick-up trucks and cars coming in daily. There will be a total of approximately 176 semis/vehicles in and out of the site on a daily basis, which represents eight percent of the current traffic on SR 19.

Omnisource will be using the existing driveway that INDOT built when they upgraded SR 19. They have contacted Vic Trowbridge from Fort Wayne INDOT regarding what he needs, and they are in the process of submitting the plans to him. A state permit will also be required to connect the sanitary sewer to an existing manhole out on SR 19, which will be discussed with INDOT and the City of Elkhart.

In regards to landscaping, the existing front fence will be removed and a 10 ft. tall solid wood fence will be installed along the frontage on SR 19. The north and south lines will have a ten foot chain-link fence installed. Along the east side, a double row berm of four to five foot tall evergreens will be installed. The evergreens will reach a height of eight to ten feet to buffer the business from the residential homes to the east.

The scrap metal piles along the south property line will have a maximum height of 20 ft., which was discussed with Mr. Burrow. Mr. Pharis indicated he has copies of the erosion BMP's and the SWPPP that will be filed with the Soil & Water Conservation District. He feels one of the big issues will be the run-off coming from the scrap piles. With the proper plantings and seedings, the run-off should access the filtration system before it gets to the retention areas. They will also have ongoing maintenance of the retention areas to keep them clean and reinstall any filtering plants that are necessary over time.

Mr. Miller asked if there are any plantings on the east side of the property. Mr. Pharis said there is a tree line there, but they will add a 4 ft. high berm and install a double row of evergreens.

Mr. Burbrink asked if there will be anything in front of the fence on the west side. Mr. Pharis indicated it wasn't considered only because of the sight issue coming in and out of the site. They could look at installing some type of buffer between the fence and the curb line of SR 19 as long as visibility is still maintained.

Mr. Burbrink said there has been some discussion about that corridor not being an attractive to the city. He asked if they could move the fence back 20 ft. and install some evergreens along there.

Mrs. Wolgamood pointed out that the site plan on the screen and contained in the booklet is not the site plan the Board has in their packets. The correct site plan was then displayed and the changes were reviewed. The correct site plan shows where the handling material would be located on site. The 25 ft. scrap file height was changed to 20 ft. The labeling on the south side was changed to "Scrap metal storage area." They will not be storing cars on site, so that notation was removed. A notation was also added regarding the solid fence.

The grinder pump pit was questioned by Mr. Miller. Mr. Pharis said they had originally planned to install a gravity system for the bathrooms in the building to go to the manhole on SR 19, but it was prohibited due to the cost of doing a boring for that size of gravity line.

Ben Eisbart, Vice President of Steel Dynamics and Omnisource, 7575 W. Jefferson Road, Ft. Wayne, was present to speak on behalf of this request. Mr. Eisbart explained one of the biggest challenges they had to overcome was Lusher Street and shredders. As stated in the Elkhart Truth a couple of days ago, the mega shredder is being moved throughout the various Omnisource locations. Their intent is not to operate a shredder anywhere in Indiana.

Omnisource has been in the Goshen area since 1995 after purchasing land and material from the Richmond family. He feels they have been good neighbors and they have complied with the City of Goshen. The company is new to Elkhart and relatively new to the South Bend area. They were in South Bend in the late 70's and early 80's and they have bought South Bend out of bankruptcy.

Mr. Eisbart explained that they do not flatten any autos in Goshen. They put the automobiles, with all fluids drained, on top of an open trailer to compress the material that is there. The business is driven by commodity and weight, so the more the weight they can get within legal limits, the better. He indicated they may be doing that at this site to allow them to rotate their material. There won't be more than 20 automobiles on site at one time.

The proposed site will not be a processing facility and it will be used as a municipal recycling site. There will also be some small industrial use such as a plumber wanting to sell some copper, or a contractor wanting to sell some siding. On occasion, there will be a roll-off brought in to transfer scraps from industrial sites. They don't intend to request anything other than the 3+ acres. The company has changed over the years and rather than investing in large processing facilities, they have a few of them with a number of feeder sites.

Lastly, Mr. Eisbart indicated they have setback room on the site where they can plant trees and bushes. He feels they are good to the environment at all of their business locations.

Mrs. Wolgamood questioned the number of vehicles that will be stored on site at any one time and Mr. Eisbart estimated 20 vehicles on the outside.

Mr. Miller asked if the flatteners are portable and Mr. Eisbart said yes. He then asked if the crushing is done by hydraulics and again, Mr. Eisbart said yes. Mr. Miller explained there were explosives that were happening with the shredder and that had to do a lot with flammable material that was left in the vehicle. He understands the shredding process is what caused that and he questioned whether the crushing is going to have issues with that. Mr. Eisbart said there is a heat issue and all of the fluids must be drained first. All of the mercury switches are removed and all canisters where the car has an airbag. The Lusher Street shredder failed to drain and due to the heat build up in the chamber and flammable gas, there were heat explosions.

The Board questioned if they remove materials in Goshen on rail cars and Mr. Eisbart said yes. When asked what it means to process metals, Mr. Eisbart said shearing, shredding, bailing, etc. Omnisource mechanically alters the metals using huge pieces of equipment, and then they segregate them and sort them by hand.

Mr. Miller also questioned "FE Sheet and Iron" and Mr. Eisbart said that is ferrous sheet iron. Ferrous sheet iron is made out of corrugated iron. They will be compacting aluminum to get the weight and then it will be taken to the processing facility. Mr. Eisbart indicated they do not handle wood, cardboard, or plastic. They have investigated it, but they can't figure out how to do it.

Mrs. Wolgamood asked if all of the processing is done inside, Mr. Eisbart said the non-ferrous metal is processed inside because of the high value of copper. The ferrous is kept outside due to the weight of the iron and steel. In this case, they plan to have a drive-through facility where it will be weighed and the person will then be compensated.

Kathy Drew, 27683 CR 24, which she said is located immediately south of the site in question. She then pointed out on the aerial photo the location of her property and her mother's property, which she said is much closer to this site. According to Mrs. Drew, this site has been vacant for a long time. They didn't know what has been going on at this site for a long time, but she said the volume of the back-up beepers this year has been very disturbing. She's concerned the end result is that they're going to smash cars, which is unpleasant in any setting, but particularly unpleasant when immediately adjacent to residential property.

Mrs. Drew's major concern with the plans is the aesthetics of a ten-foot high wooden fence along SR 19 with some shrubbery, but only a chain link fence on the north and south sides. She then questioned the point of a fence on the north and south, and merely a four-foot high berm that any child in the neighborhood can run over at the back. There is nothing to block the noise, and she said there are a lot of children living in the apartments up on the hill that wander all over unsupervised in the summer.

Mrs. Drew said she does not want this operation in her back yard, and she feels it is best suited for an industrial area. She pointed out there will be a ten-foot high chain link fence between a scrap yard and a hotel, and immediately adjacent to the hotel is a retirement home for senior citizens. She then submitted an Annual Report for Steel Dynamics, Inc. from the United States Securities and Exchange Commission *[attached to file as Remonstrators Exhibit #1]* that addresses potential environmental impacts, which she said concerns her. Also submitted was a news release from the EPA dated 11/10/2007 with regards to Steel Dynamics clean-air violations *[attached to file as Remonstrators Exhibit #2]*.

In conclusion, Mrs. Drew said she is also representing her mother and her son, and as neighbors they are not only concerned about the environmental impact as far as safety, but also the long-term impact this will have on the community. She said there are also two facilities like this proposed operation very close, and she questions if this is really the best use for this property.

Also present in opposition to this request was Warren House, 58150 Kreighbaum Street, Elkhart. Mr. House explained he opposes to this request because the area had been cleared off and he thought the land would be able to purify itself. There has been interest in the area of people wanting to buy property for hotels and restaurants. The Farmer's Market is down the street and he felt good things were coming to the area in the future.

One of Mr. House's major concerns is safety in the area. Forest River is on SR 19 and they continue to get broken into and things keep getting stolen. Omnisource is planning to bring aluminum and copper into the area, but the crime rate is up already. The people in the area are concerned that people will be trying to break in at this location. Mr. House doesn't feel the four foot fence will be enough to keep people out. He is also concerned about the value of his property should they decide to sell in the future.

If Omnisource wanted to locate in a different area out in the county near the landfill area, he feels that would be great. Mr. House indicated there are several empty lots in this area and he is concerned they will also purchase that land to expand their operations. When VIM Recycling came into the area, things were alright at first, but now he sees what is happening with its

neighbors. He doesn't want that to take place in his neighborhood.

Lastly, Mr. House said he feels it's great that Omnisource wants to hook up to city sewer and water. Although, he doesn't feel people in the area could afford it and they will have to worry about the run-off from the site polluting their water.

When Mr. Yoder asked if he can currently hear noise from the site, Mr. House said yes.

Tom Mann, 27703 CR 24 West, Elkhart, was present to speak in opposition as well. Mr. Mann said he questions that this facility is 400 feet away from any residential property. He understood this entire area was going to be rezoned for a medical facility, but then it was rezoned to allow for the gas station on the corner. There are now some hotels in the area and a small strip mall. He thought this was supposed to be a gateway into the city coming from Nappanee and this would be the first thing they would see. Mr. Mann was hoping this area would become something that the city is proud of and he doesn't feel that having a scrap metal business will be a very clean operation. There are two assisted living facilities in the area and a hotel is adjacent to the property in question. He is also concerned about excess noise and ground contamination.

Mrs. Wolgamood asked Mr. Mann to point out the location of his property on the aerial photo and he did so, which is located on the curve of CR 24.

Pat Baker, 29806 CR 22, Elkhart, was present to dispute this request. Mrs. Baker explained she is not in close proximity to this particular area, but this is a main thoroughfare that she sees frequently. She drove around the area and took pictures of what it looks like now and compared those pictures to what the area used to look like.

When Mrs. Baker asked how long Omnisource had owned this particular property, Mr. Holt indicated they will have a chance to respond to that question in their rebuttal.

She pointed out there haven't been any improvements on the site since that time and several dumpsters have been brought into a dirt-filled area. As they are making the improvements to the property, she asked if they plan to pour cement to keep the scrap metal off of the ground.

The area to the north of the site in question is currently a pumpkin field. She feels what is being requested would be the same idea if someone wanted to put a pig farm in where the pumpkin field currently is located. In the past five years or less, great strides have been made to enhance the properties along the southern stretch of SR 19. If a recycling business goes in at the proposed site, Mrs. Baker feels any chance to enhance the property will be greatly diminished. Omnisource may want to have commercial clientele as their business as opposed to the average consumer. She feels having commercial businesses coming onto the site would increase volume in the area. She pointed out on CR 3 in Elkhart is Elk City Metal Recyclers and they have a small operation that is on cement, fenced-in, and is maintained very nicely. She doesn't feel they need another operation like this in such close proximity.

In rebuttal, Mr. Niezer said this is going to be a retail recycling center and it will not be a scrap yard. The value of a retail recycling center of this operation benefits primarily from consumer recycled goods. The site and the proposed location would be well suited for that, and although they do have commercial customers, their primary customers are residential homeowners.

The property in question is zoned M-2 and he said there are a number of permitted uses for this zoning district. This site sat dormant for over ten years and Omnisource acquired the land two years ago in 2008 from Sturgis Iron & Metal. Leading up to that point in time, they underwent a significant amount of environmental testing of soil and groundwater. The site meets

all applicable standards under the State's EPA and federal regulations.

In regards to the noise, Mr. Niezer indicated there will be some, but a lot of it will occur inside the building that will be constructed. They will conduct their operation during normal business hours. The decibel reading for the operation is different than the volume of vehicle traffic on SR 19. He feels this site will be large enough to mitigate those impacts.

As a condition of approval, Omnisource is willing to limit the number of cars flattened on site at any one time to 20 vehicles. The fence along SR 19 is required by the Ordinance, but in addition, Omnisource would agree to set the fence back 20 feet. They would also be willing to work with the staff on an appropriate landscape plan between the fence and SR 19.

Mr. Niezer said the comment was made that this site is best suited for an industrial area. He pointed out that an M-2 use includes industrial operations. He can't address the clean air violation that was run off as to Steel Dynamics, but he assured the Board that this is not an SDI operation.

As far as security, he explained that having the site active is far better for the security of surrounding residents rather than an empty site. They want to be respectful of the neighbor's concerns and they will continue to work with the staff on their landscaping plans. He pointed out that most of the immediate neighbors have not remonstrated against this proposal.

Mr. Miller asked if the majority of the tonnage will be brought in by private citizens and not industrial uses. Mr. Niezer said it would be the volume of customers and not tonnage. Mr. Miller said if a customer comes in with a pick-up truck bringing sheet metal out of their garage, then he doesn't feel that would make as much noise as a commercial business coming in. He indicated he would like an idea of what type of industrial use they will be expecting. Mr. Doriot recalled 12 semis per day being stated, and Mr. Niezer clarified that would be taking material out.

Mr. Miller commented that the facility in Goshen doesn't appear to have a lot of industrial use. Mr. Niezer said that facility is a processing operation and this location would be a retail recycling operation, which he feels has a significant difference

Mr. Yoder clarified the height of the fence is ten feet and he thought four feet around the side, but Mr. Doriot indicated that would be the berm. Mr. Pharis said there is a ten foot wire mesh fence along the west side of the property. Mr. Niezer said if it is better to have the mesh fence slatted, then they could do that, although he is not suggesting it. He reassured the Board that the site will be secure.

When asked how long it takes to flatten 20 cars, an audience member said approximately an hour and a half. Mr. Eisbart said it depends on the volume of the material they have.

The number of cars per week at the Goshen site was questioned and Mike Richmond, Omnisource, Fort Wayne, indicated they currently get two to three cars per day. He indicated the cars come from the local area.

Mr. Kolbus asked if it's not necessary to flatten them at that volume and Mr. Eisbart indicated yes.

Mr. Warner said he's comfortable with the operation as presented, but he is concerned about noise from the backup alarms and dumpsters hitting the ground. Mr. Niezer explained backup alarms are an OSHA requirement for safety and they cannot mitigate. He reiterated that the activity will occur within the three acre pad the Board is considering today. Frequent throughout the day and driven on material that comes in.

Mr. Yoder said people are hearing noise now based upon the current use and he asked



how much of that will continue with the conditional use. He wondered if the noise will increase or if it would stay about the same. Mr. Eisbart said it is directly proportional to the state of the economy. They do not want empty boxes on the property, but they needed a storage place. Therefore, the boxes were put at this location and as the economy gets better, they will move them to other locations.

If economy slows down again, Mr. Doriot asked if this is a site where they would look at bringing them back for storage. Mr. Eisbart said he couldn't say they wouldn't, but they do have acreage in Goshen. Once they operate as a retail recycling facility, the boxes should be out of there and the traffic will be reduced.

Mr. Burbrink pointed out that most of the concerns are coming from the south and southeast. He asked what they plan to do about the southern border and Mr. Niezer said they are willing to work with the staff on their landscaping plan to address that area.

Allen Kauffman, Mayor of Goshen, 202 S. 5<sup>th</sup> Street, Suite 1, Goshen, was present to address how Omnisource has worked in the City of Goshen. When Mr. Yoder asked if the business location in Goshen is close to any residences, Mr. Kauffman indicated no. The business is next to the railroad tracks and is located in the only heavy manufacturing zone in the City of Goshen. He feels Omnisource has done everything they said they were going to do, but he understands the concerns of the residents in the area.

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

In order for consumer recycling, which Mr. Holt feels is necessary for sustainability of our community, he said they have found the best place to put these facilities is close to residential areas. After describing similar facilities he's aware of, he said this is a great project and it's being put where it needs to be. When asked if any of the sites he described are 17 acres in size, he said most of them are much smaller than this site.

If approved, Mr. Doriot feels they should bring some of the buffering around the southeast corner of the property. He also feels the storage of vehicles to be flattened should be limited to 20, and that it cannot be done on Saturdays or at 6:00 in the morning. He then pointed out there are heavy uses that could be done in the M-2 zone without any review from the Plan Commission and Mr. Yoder agreed.

With regards to the environmental concerns, Mr. Yoder senses that Omnisource has a very good reputation so he suspects there will not be any additional environmental concerns with this use, and he also pointed out there is other heavy regulatory oversight.

This is a mixed use area as indicated on the zoning map, and Mr. Yoder said they do need to take into consideration the concerns about SR 19 being an entryway into the city. Before this comes to the County Commissioners, he asked that there be some consideration of what they might do on that southeast quadrant to do something to buffer the noise. Assuming this will not go to the commissioners next week, Mr. Niezer said they will have time to sit down with the staff and amend their landscape plan to address that. He then indicated they would all know which plan is going in front of the county commissioners.

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

1. Staff condition #1 deemed satisfied by the letter submitted by the petitioner (Petitioner

Exhibit #1) dated March 10, 2010.

2. Staff condition #2:
  - a. No more than 20 vehicles, to be flattened, to be on the property at any one time.
  - b. That number of vehicles limited to 20 per week.
  - c. The flattening of vehicles, as presented, to be done Monday through Friday only between the hours of 10:00 a.m. and 4:00 p.m.
  - d. No other crushing, shredding, shearing or baling is permitted.
3. Staff condition #3:
  - a. The berms and fences to be installed as presented.
  - b. The berm or landscaping to be extended along Lot 1 and Lot 5 of Southgate.
  - c. The front fence to be moved to a setback of 40 ft. from the right-of-way.
  - d. The area between the right-of-way and the fence to be softened with landscaping as approved by the staff so as not to obstruct any vision clearance.
  - e. The buffering to include noise reduction properties.

Prior to voting on the motion, the Board was asked how they felt about slats in the fence as indicated by the petitioner. It was the consensus of the Board that it was better to have the slats there rather than looking through the fence.

A roll call vote was taken and the motion was carried with the following results: Warner – yes; Wolgamood – no; Doriot – yes; Miller – yes; Lantz – yes; Burbrink – yes; Yoder – yes; Holt – yes.

6. The application for a zone map change from General Planned Unit Development-R-1/R-2 to a Detailed Planned Unit Development-R-1 to be known as **THE DEERFIELD VILLAS DPUD**, for Kemar Properties, LLC represented by Brads-Ko Engineering & Surveying, on property located on the West extension of Kemar Street, 575 ft. West of SR 19, North of CR 40, common address of 65597 SR 19 in Olive Township, was presented at this time.

\* *(It is noted that Mr. Doriot stepped down from the Board at this time due to a potential conflict of interest. It is also noted that Mr. Miller was not present for the remainder of the meeting.)*

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #65597SR 19-100201-1*. He explained that a sign is being proposed, but the sign information came at such a late date that the staff is asking for it to be considered at another time and not this late in the process.

Rick Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9<sup>th</sup> St., Goshen, was present on behalf of this request representing Kemar Properties, Harvey Kemp and Tim Martin. He then noted that Mr. Kemp is also present to address any questions from the Board.

Mr. Pharis explained that he became involved three or four months ago on the residential portion of this site, which is outlined in red on the aerial. He said previous commercial and business uses were approved a year or two ago. After several possible layouts, they came up with this proposal for approximately 45 lots, which are all single family stick-built homes. He reported that they had a neighborhood meeting in Wakarusa and their biggest concern was the type of homes they are proposing. The size of the proposed homes were described as 1,200 sq. ft. for a one-story ranch, 1,300 sq. ft. for a story and a half, and 1,400 sq. ft. for a two-story home with a minimum of 975 sq. ft. on the main floor. They will connect to Wakarusa sewer and water, and they will

provide dedicated streets built to the town's specifications and standards with the exception of the curb, which he indicated they have resolved with the Town of Wakarusa.

According to Mr. Pharis, drainage was a big issue at neighborhood meeting. As mentioned, they are working with James Emmons from the Town of Wakarusa and he would like them to review the overall drainage of not just the residential area, but the entire GPUD/DPUD commercial site. One of the issues was their south retention area along the south line, which is appearing to be excessively large and holding water. Mr. Pharis said they are looking at reshaping that and it will become a detention area. He said it will be draining off to the north to their wetland area to provide much more drainage capacity storage and it will be away from the homes. He feels this will make this a nice wetland area for aesthetics for the overall development.

Mr. Pharis continued saying their west retention area will be let-off at a slower rate to the north, and they are actually taking some of the water proposed to go to the south detention area and redirecting it to the north wetland area. They are also providing some outlets for sump pumps. The seasonal high water table in some areas is two feet and other areas are greater than eight feet, all within the same site. Therefore, he said Brads-Ko will be analyzing each site as they are sold to let their client know if a basement should or could not be placed on that particular lot. If a basement goes in, he said they are providing for an outlet for a perimeter drain to take any groundwater away from the site to the north wetland area.

Mr. Yoder clarified that the perimeter drains will go into the detention area that eventually goes to the wetlands and Mr. Pharis said that is correct. Mr. Yoder then asked if the sump pump outlet will be designed within that site and again Mr. Pharis said that is correct. He displayed a site plan and explained that in the island area, they do not want any sump pump water going into the streets. He then pointed out where they are providing a drainage tile to drain into the system, and then he explained how the overflow will be going into their storm sewer system.

When asked if there will be sidewalks in this development, Mr. Pharis replied yes. He said they will be at the right-of-way line so there is green space between the sidewalk and water.

Another issue that came up with the Wakarusa Technical Review Committee was to provide a bicycle/pedestrian easement somewhere in this site to connect to the downtown. Mr. Pharis said they are doing some overall planning trying to find some other ways to get sidewalks to downtown. They are providing an easement across the utility easement, which he pointed out (south of Grandma's Pantry) on the site plan, and if the town brings sidewalks up to their site, he said they can continue on into this site without having to go through any kind of acquisition or eminent domain issues.

A complete set of covenants and restrictions were prepared by Loren Sloat, which Mr. Pharis said was shared with the neighbors at their neighborhood meeting. He thinks they addressed all of their concerns, and he said everything his clients are doing is in excess of county requirements. He then indicated he would submit a clean copy of the covenants and restrictions to the staff at a later date.

According to Mr. Pharis there be four different phases on this particular site. The southeast corner consisting of the first nine lots will be Phase One, and then they will work clockwise through the site. Phase Two will be the southwest corner, Phase Three the northwest corner, and the balance will be Phase Four. He indicated there would be ten to 11 lots per phase and he said utilities will be extended during each phase.

Mrs. Wolgamood questioned the reason for decreasing the side yard setbacks. Mr. Pharis said they have a potential home builder from Ft. Wayne who gave them site plans on sizes of homes

they want and they need the 5 ft. side yard setback. He then pointed out that this was zoned R-2, which they could have used a 5 ft. side yard and still built single family homes; however, the staff asked them to do an R-1 so they are guaranteed there will be no duplexes so they need the 5 ft.

There were no remonstrators present.

When Mrs. Wolgamood asked what Grandma's Kitchen is, Lana Weldy, 30368 CR 38, Wakarusa, who owns property to the north of this site on SR 19, said it is an Amish type grocery and bulk food store. She then clarified that it is not a restaurant.

A motion was made and seconded (*Yoder/Warner*) 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 (*Wolgamood/Yoder*) that the Advisory Plan Commission recommend to the Wakarusa Town Board that this request be approved in accordance with the Staff Analysis with the following conditions imposed:

1. Increase the rear setback dimension for Lots 4 and 5 to 115 feet in order to reduce the depth to width ratio, as requested by the Wakarusa Technical Review Committee.
2. Remove all reference to the sign and sign easement because it is located outside the legal description, in a drainage and utility easement, and on adjacent property zoned business.

The motion was carried with a unanimous roll call vote.

\* (*It is noted that Mr. Doriot returned to the Board at this time.*)

7. The application for an amendment to the Elkhart County 2006 Comprehensive Land Use Plan; more specifically by incorporating the ***Countywide Utility Study***, for the Elkhart County Advisory Plan Commission on property located in the unincorporated areas of Elkhart County, Town of Bristol, Town of Wakarusa, Town of Millersburg, and the Town of Middlebury, was presented at this time.

Ken Jones of Wightman Petrie, Inc., 4703 Chester Drive, Elkhart, was present on behalf of this request. Submitted to the Board was a copy of the PowerPoint presentation he gave at the February 11, 2010, Plan Commission meeting [*attached to file as Petitioner Exhibit #1*]. He explained that the Elkhart County Commissioner's would like to move this forward through the adoption process. The document was reviewed with the Redevelopment Commission and they are still reviewing it. Mr. Jones indicated he would rather answer questions today than do a presentation.

Mr. Kolbus then advised that this is a public hearing.

Over the two and a half years, Mr. Jones said they have spoken to every municipality in the county. They have spent some time working on their concerns and comments and providing revisions and correspondents back to them. At this point in time, they have compiled all of the revisions that were requested by the municipalities within the county and included those in the document. He feels they are at the point to call this document the final draft. Mr. Jones indicated he still has some concerns, but he feels the Commissioners want to move this forward for adoption. A couple of things still need to be done and it would be good to have some formalized positions from the treatment providers included as an appendix in the document.

Mr. Jones explained that in the area of wastewater treatment, they need to make sure the municipal treatment centers are partners to the project. The document would probably require some revisions if that did not happen. The treatment centers have concerns related to their ability to control their area of urban influence, their ability to continue to annex property that might be served

by a county district through an inter-local agreement, and the general economy and the ability to grow. He also explained that Wightman Petrie is the engineer for the Town of Middlebury and they are preparing a position for them.

When Mr. Lantz asked if he has talked with the New Paris Conservancy District, Mr. Jones indicated yes.

Mr. Doriot said his office is still in the process of reviewing this document and he feels that bringing maps into the Ordinance with this document would work as some type of a support. Mr. Kolbus said the Comprehensive Plan is objectives for future development, policies for land use development and statement policies for public infrastructure. The Board can add any materials as an informational appendix to the Comprehensive Plan. The Comprehensive Plan is currently very short, and Mr. Kolbus asked if the Board wants to add the entire document as part of the plan or add it as an informational appendix to the plan. He suggested that the Board be careful how they adopt it.

Mr. Jones said there is information in the document that could lead the Board to develop policy, so he feels the legal counsel and planners should weigh in on that topic. Adoption of the entire plan as it is basically gives the Board information they can use to lead to policy.

Mr. Yoder questioned how adding this document as an informational appendix fit into the process of the countywide sewer. Mr. Jones said it gives the Plan Commission and the staff another tool to use to review and develop other projects. He explained it also assists the county jurisdiction along with the treatment centers throughout the county to make sure they have taken steps to overcome issues with wastewater in the county. Under the Indiana law, he said there are three ways a county jurisdiction can move forward. The first one is a partnership with the municipality where the city, county, and developer are involved in extending municipal utilities into a development area. Secondly, the Commissioners have the right to use the Indiana Barrett law to overcome an environmental issue. That hasn't been typically used in Elkhart County and Elkhart City doesn't usually tend to use the Barrett law. The last way would be for the county to create a regional sewage district and manage that effort on behalf of the county's unincorporated citizens.

There are four bodies involved in the review and approval including the Redevelopment Commission, Plan Commission, County Commissioners, and the Regional Sewer District. The Regional Sewer District would use this plan to prioritize using the information given in the document to react pollution abatement projects that are associated with wastewater. Due to the way the Indiana law allows the Regional Sewer District to be structured, they would have the ability to issue debt and collect revenue for projects, which the Commissioners cannot typically do. Mr. Jones said they are also suggesting that it might be time to consider a septic system management program as recommended by the sewage district based on the number of septic systems the county currently maintains. After the Comprehensive Plan is adopted, some things will have to be done to support it such as revising the Elkhart County Zoning Ordinance.

Dustin Sailor, Utility Engineer for the City of Goshen, 204 E. Jefferson Street, Suite 1, Goshen, was present to voice his concerns. Mr. Sailor said he is speaking with regards to Chapter Six, existing water systems, about the discussion of municipal and private wells. There are not currently any established testing mechanisms for the testing of residential wells. He thinks it is important that something he put in place that there be some testing for private wells.

The plan also talks about having a log system, which he indicated the DNR currently has a logging mechanism having a licensed well driller document their wells for four inches and larger. If you install a two inch well, there is no documentation that goes anywhere. There have been some

instances in the City of Goshen where there will be a Brownfield, or some type of contamination, and Mr. Sailor will be asked how many wells are in the area. Those that are not on city water are a potential source for contamination. He thinks it is important to establish something countywide to log wells because he doesn't feel the community is being protected at this point.

The plan also recommends the protection of the community water supplies. The wellhead protection plans are not designated by the geographical area of the municipal entities. There are also some mobile home parks that have to have wellhead protection plans. They have control within the borders, but the wellhead protection areas go beyond the community borders. Mr. Sailor indicated he would like to see some type of overlay in the plans that has some assistance for wellhead protection areas. Some key points are concerns for septic systems and other types of high industrial use that would end up out in those areas.

Mr. Yoder summarized that Mr. Sailor would like to see a program implemented in the county that identifies wells. Mr. Sailor said that is correct and indicated the state only identifies wells up to four inches.

Also addressing the Board was Mayor Allan Kauffman, 202 S. 5<sup>th</sup> Street, Goshen. Mr. Kauffman indicated he has had lots of conversation with the other mayors and a lot of conversation with Mr. Jones. Early on, there was a meeting in Goshen that included representation from the towns and the three cities. The cities' concerns are similar to the towns' concerns. They are supportive of this plan and understand it has to be countywide to answer any of the existing environmental situations. They are not concerned about losing their right to annex, but they are concerned about giving up their ability to annex. Sewers are a major reason why people do want to be in cities, and once they have sewer outside the cities, there will be a hesitancy to be annexed and pay the higher prices. He understands that is not the intent of any county official to create competing sewer providers to the ones that are already in the county. Mr. Kauffman indicated he would like to make sure there is something in the documents that prevents future elected officials from creating competing sewer providers to the cities.

Another one of his concerns is capacity because if they take in the customers from the sewer district, when it comes time to expand the plant there will be financial issues. In the cities, they are all CSO communities and every city in Elkhart County is paying millions of dollars to clean up the river. The rates are going to be high because they have had to clean up the rivers and he doesn't want a situation created where people in the sewer district have a higher rate than customers outside of the city limits.

The sewer plan identifies a lot of pockets where they need to have solutions and to the extent to where they need to solve the existing problems. Mr. Kauffman doesn't feel anyone wants to see sewers everyone in the county to allow for development anywhere. He indicated there is a concern about that happening in the future. Overall, they are supportive of the countywide sewer plan and the sewer district with the understanding that these are going to be issues as they move forward.

In response, Mr. Jones explained they need to make sure the treatment centers have the input they need to go forward. The document can be approved and made a part of the Comprehensive Plan as it is with the understanding that they will have challenges. There are ways that this can be specifically addressed in an obligation agreement with a federal level funding agency that covers the city's rights and desires along with the county citizens, including the fact that it is likely that anyone connected to municipal utilities will ultimately be annexed.

Mr. Yoder said if they use this as a supporting document to the plan, it helps guide policy

going forward, which seems to be beneficial.

There were no remonstrators present.

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

Mr. Yoder clarified that the Commissioners are not in a big hurry to get this done, they are just looking for a forward motion. He said the Board could approve this as a recommendation that it becomes an amendment and if the cities wanted an additional 60 days or so to include formalized positions, then that could be accomplished.

Mr. Holt said he would like to hear what portions the staff would like to have adopted. He doesn't feel ready to vote on this today because he would like to hear input from the Mayor of Elkhart. However, Mr. Yoder feels they are ready to send it to the Commissioners because they've been looking at it for years.

If the entire document is incorporated into the Comprehensive Plan, Mr. Doriot feels they will end up with a cumbersome document.

Mrs. Wolgamood feels the Comprehensive Plan is a small folder and they knew there would be a lot of supporting to go along with it. She agrees that this is an excellent supporting document. There will be more documents in the future they will have to look at and incorporate into the Comprehensive Plan.

Mr. Watkins explained they were encouraged by the Commissioners to contract and have this document done. This is one of the tools that give them guidance on how they should be reacting in the areas where the cities or municipalities consider urban growth areas. There is a section in the Subdivision Ordinance that references hooking up to municipal sewer if you live within a certain distance of one.

The sewer district issue is related to this, but Mr. Watkins also feels it is different. This document discovered where the problems are located in the county, where they should prioritize when money becomes available or when someone petitions the Regional Sewer District for sewer. The Regional Sewer District Board is not taking the position where they will go out and fix all of these. If they are adopting this as a reference or appendix to the Comprehensive Plan, he feels it does give the staff a tool to refer so they know what to do in the urban growth areas.

Mr. Burbrink indicated they have been focusing on the sewer aspects of this, but he feels the water aspect is just as important. Mr. Watkins said the document does make reference to the need to adopt a well code. The document that it is in there is complete with the exception of what you need to do in contamination areas. He explained he drafted that document with a committee including two well drillers.

Mr. Doriot indicated he would be more than ready to vote on this at the Plan Commission meeting next month. Mrs. Wolgamood indicated she had no problem postponing action for a month or two.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Burbrink*) that this amendment to the Elkhart County 2006 Comprehensive Land Use Plan be tabled until the April 8, 2010, Plan Commission meeting. The motion was carried with a unanimous roll call vote.

8. A request for a minor change to the site plan for **VIM**, which is located on the North side of Old US 33, 1,140 ft. East of CR 1 and the East side of CR 1, 700 ft. North of Old US 33 in Baugo Township, was presented at this time.

\* *(It is noted that Tom Holt stepped down from the Board at this time due to a potential conflict of interest.)*

Mr. Watkins explained that changes to the site have been made as a result of the EPA's interaction and clean-up of the site. One of things they were looking for was some support from the environmental engineer who has been overseeing the work being done at VIM, and he submitted a copy of a letter he received from Paul Ruesch of the U.S. EPA Region 5 *[attached to file as Staff Exhibit #1]*, which addresses that. He then reviewed the proposed changes, which are as follows:

1. An adjustment to the berm height as outlined in the EPA correspondence;
2. The addition of a berm to the east edge of the property; and
3. The acceptance of existing berm materials as being reviewed and managed by an employee of the U.S. EPA as an acceptable berm material.

Mr. Watkins asked if the Board feels these are minor changes, and if they do, he asked that they accept those minor changes to the site plan. Mr. Will was unable to attend the meeting, but he said he did have some communication with his office.

According to Mr. Kolbus, these proposed changes are more restrictive and mandated by a governmental unit so he believes they do fit into the category of a minor change.

Mr. Doriot moved that the Advisory Plan Commission approve the proposed changes as a minor change to the site plan since they are mandated by the Environmental Protection Agency by way of IDEM and are more restrictive. The motion was seconded by Mrs. Wolgamood and carried with a unanimous roll call vote.

\* *(It is noted that Tom Holt returned to the Board at this time.)*

9. Last month, Mr. Nemeth explained there was a question of what Goshen is doing to cut down on the turnaround time for minor subdivisions. He looked at their minor subdivision procedural list and then compared it to Elkhart County's. One of the big differences is that their minor subdivisions are not public hearings and their submittal time is ten days before the meeting. If there are no major problems, they go forward with the non-public hearing meeting for the minor subdivisions. The way Elkhart County does it, there is a six week waiting period for the public hearing.

One thing Elkhart County is currently trying to do to cut down on the turnaround time is after the minor subdivision leaves Plat Committee, then it will be heard by the Commissioners two weeks later with a summary given by a planner in regards to what happened at the meeting.

Mr. Nemeth suggested that they explore the option of not having a public hearing for the minor subdivisions. The reason why is because letters are sent out to the neighbors after the Plat Committee meeting, which really upsets them considering they get the notice after the meeting has already taken place. The letter basically informs them that if the subdivision meets the regulations and a neighbor appeals it, then the Plan Commission basically has to approve it because it meets the regulations. Therefore, the neighbors protesting against a subdivision would be a waste at that point in time. Mr. Nemeth feels the interested parties are the owner(s) and the Plat Committee.

Mr. Doriot asked if the Commissioners need to sign the plat by statute and Mr. Kolbus said no. If the Commissioners don't sign it, Mr. Doriot indicated it is still a plat by statute. Mr. Burrow explained they used to approve Secondary Subdivisions contingent upon them correcting several things. There were a lot of plats being approved that were not in compliance with the Ordinance.



He indicated the Plat Committee or the Plan Commission should not approve a plat unless it complies with every aspect of the Ordinance.

Mrs. Wolgamood reported that it takes 20 days in Goshen City's process, but it takes 80 days for a minor subdivision to be approved in the county. She explained the application has to be submitted 35 days prior to the Plat Committee meeting and within 14 days, the application is to be submitted to the Technical Committee, and there are other things that follow along with that. She pointed out that those steps are not in the Goshen City process.

Mr. Burrow indicated the cities have more control over the commentary coming from different departments. He indicated they could also set a Technical Committee and Plat Committee meeting twice a month.

During discussion regarding turnaround times with the Highway Department, Mr. Doriot indicated the Plat Committee can establish the right-of-way.

If you follow the procedure, Mr. Kolbus indicated everything should be done up front. He advised that the Commissioners talk with their council regarding this matter.

Mr. Yoder feels the Commissioners could just get a report. He then asked if they have a formal idea on the change they want so that a memo could be written to Gordon Lord. Mr. Burrow said all they need to do is confirm with Gordon Lord to see if he agrees that the Commissioners can be taken out of the process.

Mr. Burrow asked for consensus of a Plat Committee made up of technical representatives and Mrs. Wolgamood felt they should discuss that after they talk with Gordon Lord.

Mr. Burbrink asked Mr. Burrow to list the pros and cons in a memo and Mr. Burrow indicated he would do so.

10. A motion to adjourn the meeting was made by Mr. Doriot and seconded by Mrs. Wolgamood. With a unanimous vote, the meeting was adjourned at 12:19 p.m.

Respectfully submitted,

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Kate A. Keil, Transcriber

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Kathleen L. Wilson, Recording Secretary

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Tom Holt, Chairman