

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 9TH DAY OF SEPTEMBER 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: Blake Doriot, Tom Lantz, Jeff Burbrink, Meg Wolgamood, and Mike Yoder. Staff members present were: Mark Kanney, Planning Manager; Duane Burrow, Senior Planner; Robert Nemeth, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Doriot/Burbrink*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 12th day of August 2010 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Wolgamood/Doriot*) that the legal advertisements, having been published on the 28th day of August 2010 in the Goshen News and on the 30th day of August 2010 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/Wolgamood*) 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 an Appeal to the Plan Commission for permission to build on Lot 22 of **DEERFIELD SECOND**, for M and H Rentals, LLC represented by Brads-Ko Engineering & Surveying, on property located on the Northeast corner of Mohawk Drive and CR 17 in Concord Township, zoned R-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #22231MOHAWKDRIVE-100802-1*.

Present on behalf of this request was Barry Pharis of Brads-Ko Engineering & Surveying, 1009 St., Goshen. He represents Habitat for Humanity, the purchaser/developer of Lot 22 in Deerfield, and he noted that Tom McArthur, the executive director, is also present.

Mr. Pharis explained that in 1968 the Plan Commission denied building permits on Lots 13, 15 though 19, and Lot 22 in this subdivision. This decision was again confirmed in 1992. He clarified that this appeal is only for Lot 22, and he referred to the thorough historical review presented in the Staff Report of which he said he has no questions or concerns.

Since 1992, Mr. Pharis said the construction of CR 17 has impacted Deerfield significantly. The previous paths of flow were from the west and southwest across and through Deerfield, but the construction of CR 17 blocked all flow from the west and significantly addressed the flow from the southwest and redirected it. In addition, he said the construction of a large retention area on the west side of CR 17 and structures from the east side of CR 17 directing flow to it have further impacted the drainage paths.

Mr. Pharis then submitted a GIS map and an aerial photo of the subject area that show the elevations [attached to file as *Petitioner Exhibit #1*]. He said the highlighted areas of the maps represent Lot 22. He pointed out that the elevation on Lot 22 is 784, but it drops to 780 west of the lot. Also noted was the elevation on the adjacent lot to the east which goes from 784 to 786. The second map shows the new CR 17, large retention areas to the west, and the swale adjacent to CR 17 with an elevation of 780. If you look at Deerfield, he said all of the elevations remain the same as the first GIS drawing. Mr. Pharis said these maps indicate that Lot 22 will have no impact to the drainage flow to the east or other lots within in this subdivision.

According to Mr. Pharis, the County Health Department did a septic boring on Lot 22 and found a seasonal high water table of 36-inches. It was their recommendation that Lot 22 be a shallow trench conventional septic system. A boring was also done on Lot 19, which is directly across the street, and that report came back with no septic systems at all. It was then clarified that all of the lots on the cul-de-sac (13-19) were included in that report. The decisions of 1968 and 1992 were based on septic, which he said is not an issue for this lot, and drainage that has been dramatically impacted by CR 17. He then reported that the proposed residence will not have a basement.

Mr. Pharis continued saying the neighbors have submitted a letter in opposition to this appeal. They first talk about the natural sound barrier of the wooded area to the west; however, he pointed out the area to the west is not part of Lot 22 and that all of Lot 22 is heavily wooded. If approved, he said Habitat will be purchasing the area to the west and Lot 22. The heavily wooded area along the right-of-way will not be altered in any way and he said they have also agreed to keep as many of the trees as possible.

A concern about noise was also addressed by the neighbors; however, Mr. Pharis said a house on Lot 22 is not going to impact the noise on CR 17 as it is already there. If you keep the wooded area and build a residence on Lot 22, he believes you will create a better sound barrier for the adjacent neighbors and those to the east with the building.

Mr. Pharis feels they have already demonstrated that Lot 22 will not impact the drainage in the neighborhood. If there is any situation, he said the lots to the east and adjacent will drain onto Lot 22 as they have elevations of 786 and Lot 22 is 784.

The last statement on the neighbors' letter was that they were opposed to subsidized housing. Mr. Pharis then described how the Habitat system works for a Habitat buyer, which includes 13 weeks of training setting up and balancing a budget, how to maintain your home, and how to get along with your neighbors. The buyers are also required to put sweat equity into their home as well as cash equity. He said the only difference in their mortgage is that they write their check to Habitat for Humanity who carries the mortgage.

Mr. Pharis feels the restrictions on the potential buyer are more demanding for a Habitat owner to get into a home than it would be going through a traditional bank. A recent article he read stated there are currently 80 mortgages in place with Habitat for Humanity in Elkhart County. Approximately ten of those are having difficulties, but he said the other 70 are current with no problems. With the effort Habitat for Humanity and the Habitat buyer takes to ensure they are a good risk, not only for Habitat but also for the community, Mr. Pharis feels that is a good record based on the economic conditions of Elkhart County, the number of vacant homes, and those going into foreclosure.

Based on the favorable Staff Report, Mr. Pharis said the Health Department has no objections and the cleaning of the swales, as requested by the County Surveyor, will happen with the installation of the driveway. However, he is surprised that the Highway Dept. has required surface 110 ft. x 21.6 ft. wide. In March, he said Tom McArthur spoke with a representative of the Highway Dept. and that was not an issue at that time. It was also not an issue or indication when he spoke with them in May. Mr. Pharis said he contacted the Highway Dept. yesterday and he submitted their response to the Board *[attached to file as Petitioner Exhibit #2]*. According to their response, which is dated September 8, 2010, he said they want them to asphalt this long enough to incorporate the driveway (approximately 30 ft.).

For clarification, Mr. Doriot said they will pave it back far enough to allow for the Highway Dept. to stop their plow and leave a pile a snow and Mr. Pharis said that is correct. He said there is already a base coat of about 25 ft. of asphalt there, but it's difficult to see because weeds have grown up past the 25 ft.

In conclusion, Mr. Pharis said they agree that Lots 13 through 19 are unbuildable without sanitary sewer, water, and a complete drainage design maintaining the water within that cul-de-sac and on those lots. Lot 22 is buildable, and he said it will not increase drainage, it will improve the sound barrier, and it is not subsidized housing. He requested approval of this Appeal based on the staffs' recommendation with the addition of the Highway Department's reduction to 30 ft.

Present in opposition to this request was David McMillen, 22209 Mohawk Drive, Goshen, who said he was representing Lot 21 and the rest of the Deerfield Second residents.

* *(It is noted that Dennis Sharkey arrived for the meeting at this time.)*

Mr. McMillen disputed the comment that Lot 13 was not buildable because he said there is a home on that lot. When soil borings were done in February, he said he came into the office to check on it and it came back as a non-buildable lot. When he received his letter, it indicated the property was R-1 and he questioned when it was zoned to R-1.

According to Mr. McMillen, Lots 14, 19, 20 and 21 all have water problems in their basements now and in the spring. He doesn't think the retention pond alleviated their water problems, and he feels there will be increased water problems when they remove the trees on Lot 22. He said the water in the subdivision runs to the west to CR 17 and into the swale. There is only one culvert that allows the water to run over to the retention ponds, which he clarified is in the field marked A-1 to the north on the aerial photo. If the trees are removed, he said it will remove the natural sound barrier. There is a lot of brush down low which he said is keeping the sound down, and he doesn't feel that a house will provide a sound barrier. In addition, he said there is a lot of natural habitat on the lot as well.

Mr. McMillen said this will not only affect him, it will affect the entire neighborhood clear up into Deerfield One. He then reported that 100 percent of the residents in Deerfield Two have signed a petition that they are not in favor of this request.

When asked if he lives on the adjacent lot to the east (Lot 21), Mr. McMillen he said he did.

When Mrs. Wolgamood asked if he has a basement, Mr. McMillen replied yes. She then asked if all of the houses in the neighborhood have basements. He said there are four houses with basements in that particular corner and they all have water.

In rebuttal, Mr. Pharis submitted a copy of the letter the neighbors sent to the Plan Commission *[attached to file as Petitioner Exhibit #3]*, which states they are not in favor of additional homes in this area. Several concerns are also listed, which include noise from the traffic on CR 17, existing

wild habitat, high water tables and water run-off, and their opposition to subsidized housing. He also submitted a list of all of the lot owners in Deerfield that he received from the Auditor's office yesterday *[attached to file as Petitioner Exhibit #4]*. From the Auditor's list, Mr. Pharis said he has been able to identify only a few of the people on both lists. He then noted that the Auditor's list (Petitioners Exhibit #4) indicates that Lot 21 is owned by Steven Kronewitter. Mr. Pharis said he believes that legally he could ask that this letter (Petitioner's Exhibit #3) be denied from consideration because it is not an authorized Auditor's list approved; however, he asked that the Board keep this letter in the file and consider its components.

Mr. Pharis agrees that the noise on CR 17 from the trucks and traffic is loud, but he said that has nothing to do with Habitat building a house on Lot 22. He reiterated that they will not remove any of the trees in the buffer area, and they will keep as many of the trees as possible in the open space at the southeast corner and along the east line of this property. He also said this house will not have a basement so they will not impact the water table or the water in the basements of those four homes in any way. He feels they have answered all of the questions of 1992, which states that Lot 13 was not to have a building permit. He said he's looked through the files and has not found any Appeals since 1992 that would have granted a building permit on Lot 13.

When asked to address Mr. McMillen's question on when this property was rezoned to R-1, Mr. Pharis said 1966 or 1967.

Mr. Yoder commented that they believe they had a letter from the Health Dept. saying that lot was not suitable for septic. Mr. Pharis said he submitted for the file a copy of the Health Department's current soil boring report for Lot 22, which was done in February 2010. Prior to that, he said he was not involved in Deerfield so he doesn't know if any other borings were done. He also has in his possession the soil boring on Lot 19 (across the street) from the County, which he said has "no septic of any kind" across the bottom. The seasonal high water table across the street was 40 to 48 inches, but he said the problem for septic was fill from 10 inches on.

Mr. Yoder said it looks like the direction of the water is moving west and he asked if it goes across the lot or the farm land to the north. Mrs. Wolgamood also asked if the long narrow dark strip on the west is a drainage area and Mr. Pharis said it is a drainage swale that was built along CR 17.

For clarification, Mr. Pharis said the elevation at the bottom of that swale is 780, which would probably put it below the seasonal high water table. It then rises on both sides to an elevation of 782 to create its bank. The elevation of Lot 22 is 784 so if they're draining, he said they are draining to the west. An elevation of 786 on the two lots to the east was pointed out and Mr. Pharis said if they are getting water in their basement, it is in all likelihood a function of seasonal high water, not having tiling around their basements or below basement tiles, as opposed to over-ground water drainage issues. He believes that is why there might be only four houses in this subdivision that have basements.

Mr. Burbrink then asked for the location of the culvert under CR 17, which Mr. Pharis indicated is at the south end of the drainage swale. He pointed out that on the second drawing he provided there are two large drainage ponds; one was enlarged and the other has been created for the construction of the bridge. He said it was originally specified on the plans as the drainage area, and he said the piping all goes to it. In addition, the natural drainage from the west side of CR 17 is to the west towards that area.

When Mrs. Wolgamood asked if CR 17 drains off to the east, Mr. Pharis said it does and he pointed out that it drains into that swale.

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

During discussion, Mr. Yoder pointed out that this property has already been zoned for residential so it has already been decided this is an appropriate area for a house. He said the only issue is whether the drainage issue has been resolved.

Mr. Doriot said his staff feels it has been resolved as long as they clean the swale and allow the water to flow as it should with the CR 17 change. It's a platted lot and he said there is a restriction on it due to a water and septic problem, but he pointed out that they have submitted documentation to the Health Department who says it is buildable. As this lot is cleaned up and graded around, he feels the water will be allowed to flow through it more; however, he doesn't know if it will improve the water problem in the basements because he thinks that is an issue with the seasonal high water table.

In agreement was Mrs. Wolgamood who said she feels Mr. Pharis has submitted all of the information that was required of him.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Holt*) that based on the information submitted and the staff recommendation that this is buildable lot, the Advisory Plan Commission determined that the moratorium (on Lot 22) should be lifted with the following conditions imposed:

1. The roadway pavement shall be constructed as indicated in the email from Katie Niblock of the Elkhart County Highway Department dated September 8, 2010 (*see attached*).
2. No basement permitted.

The motion was carried with the following results of a roll call vote: Doriot – yes; Sharkey – abstained; Lantz – yes; Burbrink – yes; Wolgamood – yes; Yoder – yes; Holt – yes.

6. The application for an amendment to a Detailed Planned Unit Development known as ***ELKHART EAST AREA 'D'***, for Almac-Sotebeer (owner/developer), on property located on the Southeast corner of the intersection of Elkhart East Blvd. and Columbia Drive, South of CR 6 in Osolo Township, zoned DPUD-E-3, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #0ELKHART EASTBLVD.-100802-1*. The applicant has requested that this petition be dismissed and he said the staff supports their request.

A motion was made and seconded (*Doriot/Wolgamood*) that the Advisory Plan Commission dismiss this request without prejudice and the motion was carried with a unanimous roll call vote.

7. The application for the Elkhart County Advisory Plan Commission for an amendment to the ***Elkhart County 2006 Comprehensive Land Use Plan***; more specifically by incorporating the Countywide Utility Study 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.

Present on behalf of this request was Ken Jones of Wightman Petrie, Inc., 4703 Chester Drive, Elkhart. He said the process for completing the Utility Master Plan has been ongoing for a couple of years and this was previously tabled to try to address some concerns. Written comments

were taken by Blake Doriot and Hans Musser after they reviewed the plan in detail, and Mr. Jones said he has some concerns specifically related to the cost of addressing those comments fully. He said he communicated that to the county commissioners and asked what their position was on that, and the response he received was specifically related to the summary portion of the comments they received from Mr. Doriot and Mr. Musser. A couple of weeks ago he said he issued a project memo (dated August 19, 2010) to the Plan Commission to review, and he hopes to go through that menu of items today and have the Plan Commission advise him of what changes they want made.

Mr. Yoder said he went through the comments individually with the large document. If they were to adopt this as an ordinance, he felt those specific concerns were very appropriate; however, he views this as just an amendment to the plan that gives some additional guidance they may or may not use to make a decision. He said they were going to need substantial additional funds to answer the questions, and he asked if it's incorrect to say this is basically a guidance document added to the plan or if it goes much deeper as far as making requirements.

Currently, Mr. Jones said the only level this document will operate on will be as an amendment to the comprehensive plan, which is a guidance document. For it to have more authority than that, it's his understanding they would have to adopt the development standards or ordinances that they could enforce. He then noted that some of the things suggested in the document have already been adopted.

According to Mr. Yoder, this initially started because they knew there were areas in the county needing some sewer services extended. After talking to a couple of the cities, they decided to do a countywide plan so all of the cities would have some basic baseline data to use as they plan when necessary. Once they started it, there were people in the cities who felt the county was trying to develop an overall plan that was going to dictate something, which he said is not the intent. He said it is just a basic document to identify where problems may be in the county in the future. It identifies capacities and current structures of each municipality, and he said it became a lot larger than he imagined it would be. He still feels this is just a guidance document and they are not ready to adopt any more ordinances than they have already.

When Mr. Yoder said he likes the suggestions that have been made, Mr. Jones said he did his best to try to address some of the concerns brought out and he tried to make the document less of a directive and more of a guide.

At this time, Mr. Doriot submitted a packet of information to the Board *[attached to file as Staff Exhibit #1]*. In this material were the written comments he and Mr. Musser prepared after their review of the document, and a follow-up to their comments from Wightman Petrie. Also contained in the packet was a Septic System Failure article from the Purdue Extension, the LEED Reference Guide for Neighborhood Development from the U.S. Green Building Council, articles on alternative methods to wastewater treatment plants, and the EPA Handbook for Managing Onsite / Clustered Wastewater Treatment Systems.

Mr. Doriot questioned the difference between an appendix and an addendum to the plan. Mr. Kolbus explained that an appendix is supporting data/studies, which supports the plan and can be used as reference materials. If it's formally adopted as an addendum or part of the plan, he said it carries more weight and has to be considered in any rezoning request, etc. If the intent is for the document to provide more of a guideline and reference material, Mr. Kolbus said it should be an appendix to the comprehensive plan.

Mr. Doriot feels this cannot be an amendment because he said an amendment has to give reasonable regard to the existing comprehensive plan. He doesn't think that some documents give reasonable regard by the fact that some of them are misleading.

If an addendum is more powerful than an appendix, Mr. Yoder asked if that means you can't have an onsite septic system and you have to connect to a city utility if you're within a service area. Mr. Jones said there is nothing in the document that even suggests that.

Mr. Doriot explained that they have a document that shows these service areas, and he asked if people within those service areas know the cost of the sewer, tap fees or rate charge they will have to pay when the sewer is extended. Mr. Jones said no one does. This is a leading document that identifies the areas they may need to address, but Mr. Doriot said he sees nothing in the document that supports the fact that two systems in your lot will last a lot longer because those systems can be valved. If you put a system on for two years and then the next for two years, on and off, he said most likely that system should repair itself.

Mr. Jones commented that somehow the purpose of the document has been misinterpreted and the adoption of this document will not trigger a sewer project in a service area. The only thing it does is identify priority areas and it tries to give the partners some idea of what they should plan for. He said the city of Elkhart has reviewed and agree with this document, and they understand they may be asked at some point in time by Elkhart County to participate in a project that might serve sewer in a neighborhood.

Mr. Jones went on to say that one of the goals was to get people thinking together so some plan at the county doesn't conflict with what the city is doing. He wonders if adopting this as an appendix or an addendum has already been accomplished just by completing the document because this has been reviewed and revised for two years now.

Mr. Doriot said he does not recall getting any notice on it or he would have submitted comments earlier. Mr. Jones explained that he had points of contact with the county, but he does not know how information was disseminated.

Mr. Holt compared the document to a research project. If it's adopted as an amendment, it is an implied or an inferred ordinance; however, if adopted as an appendix, he said it just needs to be in the record for research and used as a guide.

Mr. Doriot said at best to him this is an appendix and Mr. Sharkey agreed. When the Board was asked if anyone wants to put it in as an amendment, the consensus was no.

The Cleveland Township soils map within the document was submitted to the Board *[attached to file as Staff Exhibit #2]* by Mr. Doriot. The entirety of Cleveland Township is rated severe soils through the USDA for septic, which he said is true, but it does not show the new technologies available such as drip irrigation, mound systems, and new treatment for septic that alleviate all or the majority of those concerns. If the Board is going to adopt this document, even as an appendix, Mr. Doriot thinks they need to take sections of it as an appendix rather than the entire document.

He then submitted the Jefferson Township soils map from the document *[attached to file as Staff Exhibit #3]* and he pointed out the entirety of the subdivisions, which are circled, have gone through the Environmental Division of the Health Department and been approved. He feels those pages leave a false notion that the ground is not developable and he asked if they want to include those pages.

Also submitted from the document by Mr. Doriot was the Baugo Township septic failure map *[attached to file as Staff Exhibit #4]*. If you pull this map out of an appendix as a planner or board

member and it says failed septic, he asked if that would leave you thinking the entire ground might not be good for development.

When Mr. Sharkey questioned the number of septic, Mr. Doriot said each red parcel is one failure. He said a failed septic in Elkhart County is a repaired septic, and if it is failed, they are looking for ways to repair it. He indicated that a lot of the failed septic out in the country were probably put in during the 1930's or 1940's when the standard operating procedure was to run a tile to the ditch.

Mr. Jones agreed with Mr. Doriot and he clarified that the color represents a repair permit and not a failed septic. The logic for including that information in the document was to give a basic overview of what's going on in that particular area of the county. He thinks Mr. Doriot's concern is that someone in the future will use this document as its only guide, and if that's the case, he said it would be inappropriate for the Board to adopt it because it's not meant for that.

Mr. Jones continued saying this is more of an engineering document than it is a planning document, and an engineering document is meant to be simple. He said the author is trying to get everyone to come to a similar or the same conclusion, and the reason that information has to be in the document is because it supports the progressive approach of an engineering document. Talking with the cities was an effort to open a door to a partnership. He said the county is going to need them so there has to be some interplay at some point in the future. What they don't want is for the city of Elkhart, for example, to sell all of their capacity to a community in Michigan when they have people on their doorstep they need to be looking out for. Because of the completion of this study, he said that is the position the city of Elkhart is taking.

It was Mr. Doriot's feeling that this is a tool for the wastewater treatment plants, the Planning and the Health departments, but he doesn't think some of this information is a tool for the Plan Commission and Mr. Jones agreed. He said it might be that a good part of the goal has already been accomplished and Mr. Doriot said he thinks it has. Whether the Plan Commission adopts it or not, Mr. Jones said the municipalities are going to use it. Basically, he said the adoption says to Elkhart County and the cities that the document has been completed and they think there is valid information if it's adopted as an appendix or guidance tool.

According to Mr. Jones, what really interested the cities is the support that Elkhart County needs to provide to them for the protection of their urban areas of influence. Mr. Holt asked if they are still waiting on the urban growth areas for Elkhart and Goshen, but Mr. Jones said they have never been given a written document from the council that indicates they are adopting it along with the county so he has not pursued it any further. He did receive input from the staff and official members of their community, but it has never been stamped approved by the major or the city council. He questioned the need for that if they don't get Elkhart County to at least get there first.

At times, Mr. Doriot said he sees Elkhart and Goshen wanting their area of influence to be industrial and commercial and he wishes the cities would say what they are actually planning like Wakarusa has done.

Mr. Jones said there has been a significant amount of review from everyone of the municipalities. They have all provided input and he said they have made revisions at their request. As far as he's concerned, the document is complete with the exception of any revisions the Board asks him to make today. He feels it is then logical to send the document back to the municipalities. He said the cities were comfortable with the suggestions within their areas of urban influence, and if that is changed now, they will have to go back to them for further review.

A map of priority service areas for future municipal service areas was then displayed by Mr. Jones. He said some municipalities have formally adopted areas of influence, and all of them have a statute right for a two-mile area beyond their current border. Most, he said, choose to adopt something that fits their pattern of growth or their goals.

Mr. Jones pointed out Elkhart's area of urban influence, their area of planning influence, and their area of urban services as they see it, which he explained is represented in multiple documents that they have adopted. That information has been put into this utility study, and he said they gave the shaded areas back to the municipalities to comment on in case they may need to be looking at those areas in the future. He said the chances of Goshen wanting to extend utilities beyond their current urban services area is slim; however, it might be appropriate for them to work their way out toward Jefferson Township in the future. He pointed out a portion of the township that's already been annexed into the city, but he said they do not have utilities or any services there yet and he doesn't see Elkhart County stopping development because there are no utilities there.

When asked by Mr. Sharkey if they extended utilities to Jefferson school, Mr. Jones said not yet. It was then clarified that they are putting in storm water retention areas.

If the document is used for what it was intended for, Mr. Jones said it shouldn't impart any significant change in the way things are currently done. Some of the documents have already been adopted and he said they will probably be supported in the zoning ordinance. He then suggested they change the bottom of the septic failure map to say "septic repairs or permits issued" because it does represent a continuing pattern of overcoming the challenges the USDA says they have. The way they classify severe/moderate is based on four or five criteria and he said Elkhart County fits them all. What they wouldn't want to do is use this document for the soil review resource, but he said it might provide you some guidance.

Mr. Doriot feels there is some information within the document that is very misleading and could be misconstrued in the wrong hands. If it becomes an addendum, he said Mr. Kolbus would have to defend it.

Mr. Holt suggested they adopt the document as an appendix, which he feels is no different than having a set of encyclopedias to use for a reference. If adopted as an amendment, it is part of the plan and both he and Mr. Kolbus agreed it would have to be defended.

Mr. Lantz said he would like to see a clarification on the maps that it is a repaired septic system. If you have one failed or repaired septic system on a 30 acre parcel, Mr. Sharkey asked if they make the entire 30 acre parcel red. Mr. Jones explained that it was a function of the tax code number so it would be shown on the entire parcel.

Because it is a repair, Mr. Burbrink said you don't know what caused the system to fail. Mr. Jones said they didn't look at that, they only identified that there was a permit. Since adopting the new standards, Mr. Doriot said the reports will show if there is a failure in a new system, and 90 percent of the time it's going to be in the first year because it was installed improperly.

When Mr. Yoder asked if there were any suggestions for language changes, Mr. Jones reiterated that the map be changed to "septic permit issue or repair permit issue". He also said they could add language that indicates they don't know what the repair was. He then asked the Board to keep in mind that one of the things this document will be used for is qualifying certain areas of the county for funding.

Referring to page two of the project memo, Mr. Yoder pointed out that Mr. Jones suggests changing the description to "septic repair permits maps" so the language is there for the Board to

direct changes be made.

One of the things Mr. Doriot and Mr. Musser were concerned about is that there was not enough language in the document supporting the continuing use of septic systems, which Mr. Jones said he agrees with. Just because they show it in a priority service area doesn't mean it can ever be served. One of the things you always look at in an engineering document is if the cost is feasible, and he said you have to keep an open mind on what other options are available.

According to Mr. Jones, the Project Review Matrix by the Health Board asked for them to bring them a concept that works so they can support it. He too feels the language is not strong enough to support that so he suggested they add two additional comments to Section 9.1 in the project memo, which he said is the best he can do. He would have liked to actually identify concepts that would be applicable to Elkhart County's condition, but he said there are no funds to do that.

Mr. Doriot feels the document needs to refer to the US Green Building Code for alternative methods such as composting, drip irrigation, an EPA cluster system, and small flows.

Mr. Yoder feels the language is very open, which he likes, and as soon as you start listing specifics, he said people begin to focus on that. If it's not that, he asked if it is really a true alternative. He suggested that saying "use of alternative waste treatment concepts that result in the same level of protection" should be considered. However, Mr. Musser said that language is already in the current land use plan. Item 5 Goal 4 of the 2006 Comprehensive Land Use Plan was then reviewed with the Board.

When Mr. Sharkey asked what they are going to do today, Mr. Holt said it's his understanding this document is suppose to change because they don't know what will happen in the future. If it's not going to be adopted as an amendment, he feels it needs to be as open as it can be. If they're going to make changes to the document, Mr. Sharkey said he's not willing to adopt it today.

Mr. Musser then addressed the Board saying he agrees Mr. Jones has prepared an engineering document, and from start to finish, the supporting documents justify the service districts. He feels they are not an alternative, they are one option which is sewer and water in those areas. There is already a comprehensive plan so he suggested the utility master plan be adopted on its own and not as an addendum or appendix. He said this is definitely a good document, but he feels it goes against 20 percent of the 2006 Land Use Plan citing Goal 4, Environmental Stewardship. The county commissioners are required to adopt the land use plan, which he said they have, and the goal is to encourage developers, surveyors and engineers in the community to follow it as a tool. He doesn't think it is meant for the Board as a government entity to control how they develop, it is a tool to look at to determine if the goals are being met.

For clarification, Mr. Yoder said the commissioners initiated this countywide utility study and they are asking this Board what they want to do with the document. He disagreed that the document goes against Goal 4 of the land use plan as he feels it adequately supports alternative systems.

Mr. Holt suggested another change on page 3, Section 4.3 of Mr. Jones' project memo to say that Elkhart County is a RV major manufacturing area.

Mr. Doriot said he wants the document more clear and concise to the general public. If you don't have the money to do a document the way it needs to be done, he feels you shouldn't do it. Mr. Yoder understands the general public will have access to the document, but he doesn't envision

them using it very much. However, he thinks the document would be very useful for the professionals so they know going into a development that additional work may be required for septic systems.

Mr. Burbrink suggested they use the word “accept” the report rather than “adopt, amend, appendix or an addendum”. Mr. Yoder said this document is going to be a recommendation to the commissioners so he’d like a very clear message from the Board on whether they want to accept it or not, and if they do, how they want it accepted.

Mr. Kolbus then clarified that if this is going as part of the comprehensive plan as either an amendment or an appendix, it would go to the commissioners. If it’s accepted as a stand-alone utility plan, he said there would be no action by the commissioners. He pointed out that the Board has adopted addendums, appendixes and policies before, but they haven’t really accepted a plan so he doesn’t know what role it would serve to this Board.

If this goes forward as an appendix, Mr. Doriot thinks another comment should be placed on the soils maps. Where it says severe soils, he suggested they add “this is an area where alternative on site methods may be required to meet county and state health department standards”.

Mr. Jones then gave an example of how the priority service areas maps would work using the Town of Middlebury. To keep the municipalities in as partnerships, he said they had to identify those areas. If the county adopts the document, the municipalities are saying they recognize the county is taking some responsibilities for that area.

If there is a development within an urban growth area where sewer is required, Mr. Holt asked if they are now creating an additional burden to residents in those developments on compact agreements. He said Elkhart puts compact agreements in all kinds of residential areas with no intention of ever annexing them, which creates a huge cost. Mr. Doriot said they would still have to support their fire and police. Mr. Yoder also recalled Mr. Jones saying they are actually doing this already and nothing changes with the adoption of this document. If you’re building within 300 ft. he said you have to consider connecting.

In further discussion, Mr. Sharkey asked if they are allowed to have a committee of board members and staff to work on the proposed language changes with Mr. Jones and Mr. Kolbus replied yes. Mr. Yoder felt they were ready for a final document, but Mr. Sharkey again said he’s not ready to vote on the changes that have been presented today.

With regard to language for the soils maps, Mr. Jones said if they put in some language that talks about alternative technology, he thinks they are saying they’re giving in to the idea that a severe designation by the USDA means you can’t use a septic system, which is not true. He pointed out that they do say that in the narrative of the document before you get to the map section, but he suggested on the maps they add something like “A USDA designation of severe soils does not preclude the use of onsite septic systems”. He said they do that all of the time all over the county and he pointed out they are already changing the maps from “septic failure map” to “septic repair permits”.

Mr. Sharkey feels the color coding should be a red dot for the septic repair and Mr. Jones said he thinks they can tell the GIS to use a symbol as opposed to filling in the parcel.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Wolgamood*) that the Advisory Plan Commission adopt the language changes in the Countywide Utility Study as suggested in the project memo dated August 19, 2010, including the following changes as proposed:

1. The wording in Section 4.3 be changed from “RV industry” to “manufacturing industry”.
2. Adding language to the soils maps that states, “A USDA designation of severe soils does not preclude the use of onsite septic systems.”
3. The GIS map be changed to use symbols on the septic failure maps rather than to block colors that has now been incorporated.

A roll call vote was taken, and with the following results, the motion did not carry: Doriot – no; Sharkey – no; Lantz – no; Burbrink – yes; Wolgamood – yes; Yoder – yes; Holt – yes.

Mr. Holt then proposed that they adopt the changes and then move to form a committee to go through any other changes that might be necessary. However, Mr. Yoder said he doesn’t see the need for a committee as he can’t imagine a more in-depth study being done, which the changes being proposed are a result of.

Mr. Holt said this is a living document and it’s supposed to incorporate things as it goes. He feels it needs to be adopted as an appendix with language that gives it legislative intent by saying something like, “this is an appendix to the comprehensive plan with the intent to be used as a guiding tool that allows it to grow”.

Since the original motion did not carry, Mr. Yoder asked if they can reintroduce the same motion and Mr. Kolbus said yes.

Mr. Doriot then moved to approve the language changes discussed today and Mr. Yoder seconded the motion. With a unanimous roll call vote, the motion was carried.

A motion was then made by Mr. Sharkey to table this item until the October 14, 2010 meeting to allow Mr. Jones to bring back the revised document with the changes authorized by the Plan Commission today, and to allow the opportunity for any further changes to be discussed at that time.

Prior to a second on the motion, Mr. Pharis asked the Board to vote on how the document would be viewed. Mr. Doriot said he thinks the addendum or amendment is gone so they would view it as either an appendix or a document of record.

The motion was then amended by Mr. Holt that the Board will review the document as either an appendix or a stand-alone Plan Commission reference document. Mr. Lantz seconded the motion, which carried with the following results of a roll call vote: Doriot – yes; Sharkey – yes; Lantz – yes; Burbrink – yes; Wolgamood – no; Yoder – no; Holt – yes.

8. There were no Staff/Board items.

9. A motion to adjourn the meeting was made by Mr. Sharkey and seconded by Mr. Lantz. With a unanimous vote, the meeting was adjourned at 11:17 a.m.

Respectfully submitted,

Kathleen L. Wilson, Recording Secretary

Tom Holt, Chairman