

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 14TH DAY OF APRIL 2011 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, Mike Yoder, with the following members present: Tom Lantz, Steve Warner, Blake Doriot, Meg Wolgamood, Jeff Burbrink, Dennis Sharkey, and Roger Miller. Staff members present were: Robert Watkins, Plan Director; 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 (*Warner/Doriot*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10th day of March 2011 be approved as submitted. The motion was carried with the following vote: Lantz – yes; Warner – yes; Doriot – yes; Wolgamood – abstain; Burbrink – yes; Sharkey – yes; and Miller – yes.

3. The legal advertisements were published on the 1st day of April 2011 in the Goshen News and the 2nd day of April 2011 in the Elkhart Truth.

4. A motion was made and seconded (*Doriot/Warner*) 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 amendment to an existing Detailed Planned Unit Development-E-3 to a General Planned Unit Development-E-3 to be known as **AMERICAN COUNTRYSIDE GPUD E-3 SECOND**, for ACS Land, LLC & Riverview Holdings, LLC c/o The Troyer Group, John Leszcynski, represented by Brads-Ko Engineering & Surveying, on property located on the Northeast corner of CR 26 and SR 19 in Concord Township, zoned DPUD-E-3 & A-1, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #0CR 26-110307-1*.

Barry Pharis with Brads-Ko Engineering & Surveying, 1009 S. 9th Street, Goshen, was present on behalf of this request representing the partners that own the subject property. After describing the location of this property, he said sanitary sewer and water from the city of Elkhart services this site. It is stubbed under SR 19 with a structure point on the west side of SR 19, and under CR 26 with a structure point to service the property to the south.

According to Mr. Pharis, the original developers wanted to create an agricultural themed park featuring a farmers market and support services to include rental cottages, motels, hotels, and restaurants. The farmer's market was constructed and operated until last September, but he said they were not able to overcome the economic conditions since 2008. The banks, city of Elkhart, and Elkhart County are owed a significant amount of money and their solution is an auction, which he said the bank and all of the partners have agreed to.

Attracting the right kind of buyers and future development requires some modification to the ordinance. Mr. Pharis said the current DPUD-E-3 eliminates all access to SR 19, and also limits access to CR 26 through a buggy access point he pointed out and five other existing curb cuts

that have been constructed. In their GPUD filing, he said they have specified that the access points will remain exactly as per the original ordinance. Access points on CR 7 were never addressed, and as parcels with CR 7 access were added, he said no effort was brought forward to amend that PUD. They believe that two access points on CR 7 will significantly increase the probability of a series of public and private roads that integrate the entire project for both traffic and pedestrian flow.

Mr. Pharis continued to explain that the current E-3 zoning requires no more than six (6) percent of the acreage to be in retail and they have itemized 62 permitted uses. Technically, he said the farmers market is a retail site that represents 14.9 acres and this leaves about four (4) acres for the other 62 uses. The more uses that are available to these developers drive the success of an auction and the type of developer needed to make this acreage a success in the future while still maintaining all of the strict requirements of landscaping, signage, and screening that the E-3 zoning requires.

According to Mr. Pharis, these 300 acres was tax assessed at one million dollars. The taxes assessed from the farmers market alone was over four million dollars. He said foreclosure will not accomplish keeping these tax dollars flowing to the county and a successful auction has the best possibility of doing so. They have a goal of trying to bring the right people to the table at the right time and he then reported that Schrader Auction has been selected because they have proven through their reputation that they can do just that.

Mr. Pharis noted that the staff has recommended forwarding this request to the County Commissioners with an approval provided there are no access points to CR 7, and provided they maintain the six (6) percent limitation. In their request for a GPUD, they are really saying they will bring back a detailed plan that demonstrates a need for CR 7 access and the need for those 62 permitted uses. Such uses include bakery shops, banks, offices, medical clinics and an indoor theater, and he said they need that flexibility to return with a DPUD to prove the uses.

Mr. Pharis hopes the Board agrees that developing this acreage, supported by sanitary sewer and water, is in the best interest of Elkhart County. He assured the Board that the strict landscaping, screening and setback requirements along with signage are going to be maintained. They are just asking for the opportunity to consider at least two (2) access points to CR 7, and consider not requiring six (6) percent of this site to be limited.

Mr. Burbrink questioned the length of the property line along CR 7 and Mr. Pharis said it is over a half-mile. He said they understand that if they are granted the possibility of accessing CR 7 they will have to align it with the existing access points across CR 7 when they come back with a DPUD unless they can prove in a traffic study that an alternate location will cause no impact.

Mr. Yoder agreed that they need to find a way to allow some access points, but he said they can't give any reason for it until they know who owns the properties and what they are going to do with it. He suspects that part of the staff's concern is that they will end up with four requests for four different access points rather than having one owner in a unified approach to access points. However, Mr. Pharis said there will only be two.

Mr. Doriot asked what percentage of commercial they need. Mr. Pharis said he just wants the six (6) percent rule eliminated so they can say the 62 uses are available at this site.

Mrs. Wolgamood then clarified that the 62 uses he's referring to are the permitted uses listed in the current zoning ordinance under the E-3 zoning (Specifications E) and Mr. Pharis said that is correct. She asked if those include all of the uses allowed in the E-1 as well as the E-2 and Mr. Pharis said yes. When she said that is more than 62 uses, Mr. Pharis said the six (6) percent

rule eliminates only those 62 uses. He explained that they are currently at 15 acres (the retail site). Nineteen acres is the six percent rule so according to the rule there are four (4) acres out of remaining 300 plus acres that could support those 62 uses. He feels that creates a significant problem in bringing in the kind of developer they want out there. He also feels that this property would be a perfect location to tie in some type of residential development within walking distance to a variety of services.

Mr. Sharkey commented that six (6) percent is not very much and Mrs. Wolgamood agreed, but she said they are asking to open the entire 300 plus acres up to total retail, which she has a slight issue with. When she reads all of the items listed, they include a lot of things such as fast food restaurants and gas stations. Mr. Pharis pointed out that the ordinance says fast food with no drive-up and Mrs. Wolgamood acknowledged that that is correct.

When Mr. Miller asked why she has an issue with that, Mrs. Wolgamood said because the original GPUD-E-3 limited retail. The detail limited retail, and she that's what the Plan Commission, the Convention & Visitors Bureau and a lot of people bought into. Now they are talking about opening up 300 some odd acres to retail and she asked if that is really what they want to see there. She did say, however, that she doesn't have an issue with two additional curb cuts on CR 7 because logically everyone realizes you probably need that.

Mrs. Wolgamood then asked for clarification on the statement about compatibility (item #6 of the petitioner's narrative). After reviewing this statement with the Board, she asked what use he is referring to that future development is intended to support and compliment. Mr. Pharis explained that he was trying to say that there is existing criminal justice centers there and the staff as well as occupants of the residences in the area could support restaurants and other services on the West side of CR 7. He said the entire 300 plus acres would be developed in such a way that it could be self-supporting as well.

Mr. Pharis asked the Board to keep in mind that the six (6) percent he is asking to be waived is General Planned Unit Development and each detail has to come back and prove to the Plan Commission that it is valid.

Mr. Doriot recalled all of the bonding agencies that popped up with the county corrections in downtown Goshen. Bonding agencies are professional offices and he asked if that's what they want in an area of retail stores. Mr. Pharis said the beauty of a GPUD is that they could impose a restriction of no bonding in a GPUD, which is a condition he could live with.

There were no remonstrators present.

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

Mr. Doriot said he has no issues with two entrances on CR 7 as long as they do not conflict with the major entrances to the east.

Mr. Sharkey questioned if the Board could ask them to put that access right across the road from the accesses to the east at a later date. Mr. Doriot said they can, but if the petitioners were to go against that they would have to prove that it's not a conflict with a traffic study. He said the entrance to the north is the higher usage entrance, which he worries more about because the entrance to the south is mainly for staff and deliveries.

Mr. Burbrink wondered if the GPUD would have to be amended again if houses were to be built in this area. Mrs. Wolgamood said that is a permitted use in the E-3 zoning district, but she doesn't see housing going in at this location because there is a correctional institution and a landfill in the area.

Mr. Yoder then clarified that the Board will be able to evaluate the uses that will be going in there every time they come back with a DPUD.

Mr. Miller said the site has utilities running to it and there aren't many people living around it so he feels this would be a nice place to have a development with retail shops. Mrs. Wolgamood also pointed out that the county has already invested a lot of money into upgrading CR 26 for the purposes of this whole complex.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Wolgamood*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an amendment to an existing Detailed Planned Unit Development-E-3 to a General Planned Unit Development-E-3 be approved with the following conditions imposed:

1. That two (2) access points be allowed on CR 7 provided the petitioner proves with the submittal of their DPUD's that they do not conflict with the current accesses across the road (CR 7).
2. The percentage restriction (6 percent commercial) to be removed, but each phase will be reviewed.
3. No bail bonding agencies permitted (as offered by the petitioner).

The motion was then carried with a unanimous roll call vote.

After verifying the portable sign is still located along the US 20 Bypass (north side of the subject property), Mrs. Wolgamood suggested that it be removed.

6. The application for an amendment to an existing Detailed Planned Unit Development known as **ANCHOR RIDGE, DPUD**, for Richard Schmucker represented by Brads-Ko Engineering & Surveying, on property located on the East side of SR 13, 2,850 ft. South of SR 120 in York Township, zoned DPUD-A-1, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #53564SR 13-110304-1*.

Present on behalf of this request was Barry Pharis, Brads-Ko Engineering and Surveying, 1009 S. 9th Street, Goshen. He explained that there is a very large island with a bridge across the lake, and in 2001, five lots were developed in the original Detailed Planned Unit Development (DPUD). He pointed out the locations where Rich and Marv Schmucker, the owners and developers, built their personal residences and where a friend of theirs built a home. He also pointed out a lot that is committed and a lot that is currently on hold.

According to Mr. Pharis, a friend approached the developers with a request to build in the area overlooking the lake (proposed Lot 6) and the Schmuckers and other lot owner are agreeable to this request. The private driveway is owned and maintained by the homeowner's association so he said there are no expenses to the county to maintain it.

There were no remonstrators present.

A motion was made and seconded (*Doriot/Lantz*) 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 (*Doriot/Lantz*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved as presented and in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

7. The application for an amendment to an existing Detailed Planned Unit Development to be known as **LIPPERT COMPONENTS SECOND DPUD M-1**, for Lippert Components, Inc. represented by Brads-Ko Engineering & Surveying, on property located on the South end of Sourwood Drive, 750 ft. South of Hackberry Drive, 2,650 ft. South of CR 38, 1,850 ft. West of US 33 in Elkhart Township, zoned DPUD-M-1 & A-1, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #65781SourwoodDr-110307-1*. After describing the extension of Corrie Drive, he said the staff feels this is a reasonable request based on the extension of city services and the city infrastructure.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th Street, Goshen, was present on behalf of this request. In a brief overview of the area, he said CR 40 is to the south and CR 38 is to the north with Sourwood Drive ultimately connecting to CR 38. The Keystone property extends out and connects to CR 27. He then pointed out where Corrie Drive has been constructed north of CR 40 to date, which will serve the next Keystone building. Their drawing shows it will make a radial and elevated curve where it connects to Sourwood Drive, which according to Mr. Pharis was required by the city of Elkhart.

In 2000, Mr. Pharis said this 14-acre parcel was created as a Detailed Planned Unit Development (DPUD) by Lippert, and a building was constructed and is currently operational. Their business is growing so they want to construct a 10,000 sq. ft. building that will increase employment by 20 people with an annual payroll in excess of \$700,000. To accomplish this, he said they needed to amend the DPUD and deal with the city so they have an agreement for connection to sanitary sewer and water. According to Mr. Pharis, the agreement is currently going back and forth for signatures as well as the dedication of the property from Lippert to the city for the construction of the balance of Corrie Drive. The agreement is practically completed and he said the new building will connect to sanitary sewer and water, and the balance of Corrie Drive will be concluded this year.

Mr. Pharis went on to explain that the property will be three lots. Lot 1 will be the new building and will directly access through an internal private driveway to the new Sourwood/Corrie Drive. Lot 2 will be the balance of the original DPUD and will continue to house the existing large manufacturing facility. Lippert had purchased property to the west and south and they are incorporating that A-1 property into the DPUD as Lot 3 to serve employee and product parking, and future expansion for buildings as they grow.

Mrs. Wolgamood asked if Lot #3 will also be served by sanitary sewer and Mr. Pharis said it will if something is constructed on it. He then clarified that the original building on Lot #2 is on a septic and well, and when that field system fails, they will be required to connect to city water, which the petitioner is aware of.

There were no remonstrators present.

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

8. The application for a zone map change from General Planned Unit Development-B-3 to a Detailed Planned Unit Development-B-3 to be known as **JAYCO COURTESY PARK DPUD**, for

Jayco, Inc. represented by Wightman Petrie, Inc., on property located on the Southwest corner of SR 13 and Bontrager Drive in Middlebury Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #00SR 13-110307-1*.

Peter Schnarrs of Wightman Petrie, Inc., 4703 Chester Drive, Elkhart, was present on behalf of this request. According to Mr. Schnarrs, Jayco has been planning this park for some time as a courtesy for people who have purchased their product and come into town needing repair work at their facility. He said they will not open a public campground in the future.

There were no remonstrators present.

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

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Miller/Lantz*) that the Advisory Plan Commission recommend to the Middlebury Town Council that this request be approved in accordance with the Staff Analysis. After a unanimous roll call vote was taken, the motion was carried.

9. In presenting the staff item on the agenda, Mr. Watkins said the department continues to work on the zoning ordinance and is moving forward on the Northwest Gateway project. He reported that we have been selected nationally as the county to work with BUILDERadius on a data program for development software. According to Mr. Watkins, this software will improve how we do Code Enforcement and Environmental Health, including record keeping. Heading this project is the GIS coordinator, Marc Watson. Additionally, he said it appears we will be receiving our third Brownfield Grant in the amount of \$400,000, and he indicated that we will be working through a very difficult (2012) budget period.

Mr. Watkins then announced his retirement with July 1, 2011, being his last day.

In discussing the process for replacing the Plan Director, Mr. Yoder recalled that when Mr. Watkins was hired, the Executive Committee reviewed the job description with Human Resources to make sure it was up to date. Human Resources then posted the job and acquired the resumes. Tom Byers was allowed to go through the applications and reduce the number of candidates down to three or four. The Executive Committee interviewed those three or four candidates and then they brought a candidate to the entire Plan Commission to consider.

Mr. Yoder said that would be an option they can consider this time or they can decide on a different process. Ultimately, however, he said the Plan Commission makes the hire and the County Commissioners will sign the contract.

If they are comfortable with a procedure, Mr. Kolbus suggested they confirm that procedure today and get the Executive Committee involved because this time will go by quickly.

Mr. Miller moved that the Advisory Plan Commission follow the process for replacing Mr. Watkins as outlined by Mr. Yoder and Mrs. Wolgamood seconded the motion.

Prior to voting on the motion, Mr. Warner commented that this process worked well before, and Mr. Yoder added that it is the quickest way to move forward. He would like to have someone hired before Mr. Watkins leaves to allow for some training in the transition.

The motion was then carried with a unanimous vote.

* (*It is noted that Mr. Doriot stepped down from the Board for the next public hearing.*)

10. The application for an amendment to an existing Detailed Planned Unit Development to be known as **HIDDEN LAKE RESERVE PHASE TWO**, for Pheasant Ridge Development (owner/developer) represented by B. Doriot & Associates, on property located on the North side of Sandpiper Lane, West side of Morning Dove Court, East side of Nighthawk Court, 1,300 ft. East of CR 11, 1,500 ft. South of State Line Road in Osolo Township, zoned DPUD-A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #OSANDPIPERLANE-110104-1*.

Blake Doriot, B. Doriot & Associates, P.O. Box 465, New Paris, was present on behalf of this request. He submitted a letter to the Board from Pheasant Ridge Development Company [attached to file as *Petitioner Exhibit #1*], which states that the homeowner's association consents to splitting Lot 15 into two lots.

Mr. Doriot explained that the subject lot, which was 15 acres, was not able to be marketed so they would like to split it into two separate lots. He also said they moved the lot line out into the retention pond so the one lot would not be on the other side of the retention pond without any possible way to maintain it. In addition, he said they are making ownership of the two lots (12A and 13A) go out into the pond a little farther to eliminate any possible problems.

Mr. Doriot went on to say that all of the streets are private and they will be maintained by the homeowner's association. He then indicated that he will be discussing the SWPPP with Jason Kauffman (Elkhart County Soil & Water). He believes that Mr. Chupp had been paying an annual fee because the SWPPP had not been closed so he said they will come into an agreement with MS4 about the Erosion Control Plan.

In further discussion, Mr. Doriot clarified that the only thing they are changing from the original DPUD is that they are splitting this lot (Lot 15), and they are realigning lot lines so the property is not landlocked.

There were no remonstrators present.

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

11. See page 6, item #9 for Mr. Watkins' Staff/Board item.

12. Discussion was then held on the procedure for tonight's special meeting of the Plan Commission for the Proposed Replacement Zoning Ordinance.

Mr. Watkins explained that the board members have been receiving all of the letters the staff received with regard to the public hearing and the ordinance and he will present the entire packet for the record at the meeting tonight.

In addition to the agenda and staff report, Mr. Yoder said there is also a zoning conversion process in their packets that lists the old zones and how the map was constructed at this point. When the meeting is opened, he said there will be two brief presentations. Mr. Watkins will introduce the process we went through to get to tonight's meeting and Brad Johnson will introduce the ordinance. He said the idea is to get to the public comments as quickly as possible and then the

Board, Mr. Johnson and the staff will attempt to answer any questions that are addressed. Mr. Yoder said there will probably be some recommendations for changes that the Board may want to consider. He also will be introducing a couple recommendations at the beginning of the meeting; one from a member of the Town Council of Middlebury and the other one concerning the zoning map.

Mr. Burbrink asked if they will have sign-in sheets, but Mr. Yoder said they decided not to. If any groups have representatives, Mr. Kolbus said they will speak first and if additional members want to speak, they will be asked to try and limit their comments to new information. Mr. Yoder said he will suggest to the audience that they attempt to keep their comments to three minutes and to focus on the ordinance.

For clarification, Mr. Miller asked if the letters he received in his packet that were addressed to him personally were also sent to the other board members. Mr. Watkins said every board member should have a copy of all of the letters received. If any letters come in today, he said he will submit them at the public hearing tonight.

Both Mr. Miller and Mrs. Wolgamood reported that they also received some letters at their homes. According to Mr. Kolbus, the general policy is if the board members received those letters at home and have read them, they will be asked to make that disclosure to the Plan Commission at the meeting. If the letters are still available, he said they should be brought in to be copied and put into the evidence. If the letters were not read, he advised that they should not be brought in.

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

Respectfully submitted,

Kathleen L. Wilson, Transcriber

Kate A. Keil, Recording Secretary

Mike Yoder, Chairman