

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 9TH DAY OF JUNE 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: Blake Doriot, Tom Lantz, Steve Warner, Dennis Sharkey, Tom Holt, Jeff Burbrink, Meg Wolgamood, and Roger Miller. 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/Holt*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 12th day of May 2011 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Holt/Doriot*) that the legal advertisements, having been published on the 28th day of May 2011 in the Goshen News and the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/Burbrink*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. With a unanimous vote, the motion was carried.

5. The application for the *Elkhart County Advisory Plan Commission* to partially repeal a portion of the Elkhart County Zoning Ordinance; specifically, subsection "SPECIFICATIONS L - FLOOD HAZARD CONTROL", and; To amend the Elkhart County Zoning Ordinance by adding "SPECIFICATION L - REGULATIONS FOR FLOOD HAZARD AREAS", and; To amend the Elkhart County Zoning Ordinance "Article 1 In General Section 2 Definitions" by deleting definitions, pertaining to the National Flood Insurance Program requirements and inserting the applicable definitions with in "Specifications L – Regulations for Flood Hazard Areas". And, To delete all the "Community Panels Numbers" of the maps identified generally as "Flood Boundary and Floodway Map" and "Flood Insurance Rate Maps" which were effective November 1, 1979 with all subsequent amendments shall be replaced by the "Flood Boundary and Floodway Maps" which shall be designated as being adopted August 2, 2011. These "Flood Boundary and Floodway Maps" were adopted by federally promulgated rule and then published in the "Federal Register" at Part 67, Volume 73, No. 215, Pages 65813 and 65814, on November 5, 2008 with said Flood Boundary and Floodway Maps having been digitally created to be maintained and updated on the Elkhart County Geographic Information System, was presented at this time. The geographic areas affected by this Amendment is all lands within Elkhart County, including all the Townships: Cleveland, Osolo, Washington, York, Baugo, Concord, Jefferson, Middlebury, Olive, Harrison, Elkhart, Clinton, Locke, Union, Jackson and Benton; and including the Towns of Bristol, Wakarusa, Middlebury, and Millersburg but excluding the jurisdictions of the City of Goshen, the City of Elkhart, and the Town of Nappanee.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review. Also presented and submitted to the Board was a Project Memo from Mr. Burrow [attached to file as Staff Exhibit #1]

with regard to the Amendment to the Ordinance for Flood Hazard Areas.

Mr. Sharkey asked if there will be changes to the maps. Mr. Burrow explained that he was in receipt of considerable information indicating that there have been changes. He noted that 1,500 notices were sent to property owners concerning changes that involved their property. More than 1,000 parcels were added into the floodplain, due to the adoption of Osolo Township Ditch. He informed the Board that 600-700 parcels had been removed from the flood plain. Mr. Sharkey asked if this change would necessitate the 1,000 parcel owners to purchase flood insurance if they have mortgages. Mr. Burrow explained that the requirement for flood insurance is at the discretion of the mortgage company. He stated that moving in or out of the floodplain may require the acquisition of flood insurance, noting that some individuals will need to have flood insurance even when they are not required to have it, as indicated in the Staff Report. He explained that by complying with the federal regulations, people can actually obtain flood insurance. This also includes people who are not in any of the designated 100-year flood zones. He stated that an individual in a critical area could conceivably purchase flood insurance at a considerably lower rate. He said that some individuals are paying a very hefty amount for flood insurance, which is a very limited form of insurance. He noted that flood insurance is meant to protect everyone's interest in the structure on the flood plain. He stated that nearly 25 percent of the flooding actions that occur are outside of the 100-year floodplain. He recognized that there are some issues associated with compliance. Those issues involve procedures that, while not currently enacted, will need to be incorporated. When referring to the procedures, he acknowledged that while they had been required in the past, it was just through policies that they weren't being done. He stated that currently there are procedures such as requiring flood elevation certificates prior to construction beyond the foundation.

Mr. Miller asked if additional requirements would be in effect for the building structure if, after being recently placed into a floodplain, a home was destroyed by a fire or tornado. Mr. Burrow responded that a total loss beyond 50% of the replacement value would require compliance with the requirements. He went on to say that there may be some elevation requirements. He pointed out that there is a provision in the law that has been in place since 1971, stating that an area that has a drainage way larger than one square mile is considered to be under a regulated floodplain. He stated that the issue was pushed out somewhat, to encourage the State to take care of it. However, the State is pushing it back on the county. He said that some of the things added were a result of what was not taken care of in 1979.

Mr. Burrow explained that Mr. Lang from South Bend met with the Commissioners to meet on some of these issues. As a result, the commissioners directed staff to work with the surveyor's and any other department to determine if they wanted to issue a request to DNR to update the map. He relayed that there is a push to update the St. Joseph Drainage Pipe. Mr. Doriot interjected that he had spoken to DNR. It was requested that Mr. Doriot and Mr. Burrow work together to provide a list of areas, especially on the St. Joe, that are not in conflict and DNR will piggyback with the work they are doing in St. Joe County. He indicated they need to do that within the next couple of weeks.

Mr. Burrow said he's not finding that much of a change in where people are supposed to be located.

Mrs. Wolgamood expressed appreciation to Mr. Burrow for his knowledge in this matter. She understands that it is State mandated and inquired about the availability of forms/permits. Mr. Burrow responded that he does have the federal and state forms and he ensures that the public has

access to those documents. He indicated that he also assists people in completing the forms and relayed that the County Commissioners had previously indicated they would support staff in assisting in that manner.

Mrs. Wolgamood shared that there is a designation for a Flood Plain Administrator and noted that there is not currently a Flood Plain Administrator. Mr. Burrow responded that his position has a Flood Plain Administrator attached to it. He explained that his job was recertified and added that as a job description. Mrs. Wolgamood observed that there is no definition in the ordinance for a Flood Plain Administrator.

Mrs. Wolgamood asked if the Zoning Administrator was prepared to appoint Mr. Burrow as Flood Plain Administrator. Mr. Burrow stated that, essentially, that is how it was set up. Mr. Kolbus confirmed that once the ordinance is passed, the Zoning Administrator or their designated representative is the Flood Plan Administrator. Therefore, Mrs. Prough will have to designate Mr. Burrow's position to coincide with his job description as Flood Plain Administrator. Mr. Kolbus recommends that it be formally done through some form of written communication through the Zoning Administrator. Mr. Kolbus explained that they put in a definition of Zoning Administrator, but not a Flood Plain Administrator. He went on to state that the listed duties and responsibilities of Flood Plain Administrator, found in Section C on page 15, coupled with the definition of Zoning Administrator would be sufficient. He stated that, if desired, he could add it.

Mr. Burrow noted that the designation of an administrator is addressed on page 14, article 4, section A. He remarked that the administrator is referred to as a Zoning Administrator. While referencing the information contained on page 14, Mrs. Wolgamood noted that the Flood Plain Administrator and Zoning Administrator appear to be one in the same. Therefore, a separate designation is not required. Mrs. Wolgamood feels that there needs to be some clarification. Mr. Kolbus stated that the Zoning Administrator means and refers to the Elkhart County Zoning Administrator and his or her duly authorized representatives, as stated in the most recent definition. That position would be authorized or designated as Flood Plain Administrator.

Mr. Lantz asked if a new definition was required. Mr. Burrow stated that Mr. Kolbus provided input regarding the definition of Zoning Administrator. Mr. Kolbus shared his belief that the addition of Flood Plain Administrator would be just the reverse of Zoning Administrator. He feels that the Flood Plain Administrator is covered in the definition of the Zoning Administrator.

Mrs. Prough stated that she would designate Mr. Burrow as Flood Plain Administrator at this time.

Mrs. Wolgamood questioned if it is state law. Mr. Kolbus clarified that it is only in the floodplain law.

Mr. Burrow stated that changes were made which the State did accept. There was a desire to keep it separate from the BZA actions. He explained that audits are conducted each time the State checks records. The State wants to know how many variances are issued. He estimated that there has been one in the last ten years. Mr. Kolbus explained that the designation for the Board of Zoning Appeals to hear and decide the appeals is in their model ordinance.

Mr. Kolbus said they tried to fit everything in the best they could.

Mrs. Wolgamood acknowledged that while she spent a lot of time going through the document, she remained thoroughly confused.

Mr. Burrow noted that one major issue that cropped up involves the State procedures for issuing permits in a floodplain or floodway. He explained that it has now been rectified in this Ordinance. The County is now responsible for reviewing and approval. This means that if the

County does not submit the necessary documentation, which is quite extensive, approval will not be received.

Mrs. Wolgamood expressed concern regarding the required forms. She noted that copies of the forms were not attached. Mr. Burrow explained that with the floodplain building permit it is necessary to comply if living in a flood plain. He noted that there is a designation on all the building permits where applicants can indicate in which flood plain they reside.

Mr. Burbrink said a lot of people don't build in the floodplains and those areas often become pastures or fields. He went on to say that occasionally, someone may put horses in those areas and he wondered if it is allowable to build three sided buildings. Mr. Burrow stated that nothing can be built, but clarified that it is permissible to build anything that can be lifted up and carried down the street with little impact. Mrs. Wolgamood noted that there is a difference between flood fringe and floodway.

There were no remonstrators present.

A motion was made and seconded (*Sharkey/Burbrink*) 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 (*Holt/Wolgamood*) that the Advisory Plan Commission forward this petition with a favorable recommendation to the Board of County Commissioners for Elkhart County, Indiana for final considerations and action. The motion was carried with the following results of a roll call vote: Doriot – yes; Lantz – no; - Warner – yes; Sharkey – yes; Holt – yes; Burbrink – yes; Wolgamood – yes; Miller – yes; and Yoder – yes.

* (*It is noted that Mr. Warner stepped down from the Board for the following public hearing due to a potential conflict of interest.*)

6. The application for Primary approval for a five lot major subdivision to be known as **ROCK POINTE**, for Warner Farms, Inc. represented by Brads-Ko Engineering & Surveying, on property located on the East side of CR 29, 2,240 ft. South of SR 4 in Elkhart Township, zoned A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 29-110302-1*.

Barry Pharis, 1009 S. 9th Street, Goshen, was present representing the petitioner. Mr. Pharis explained that the 36 acres are on the east side of CR 29. According to a 2010 traffic report from the Elkhart County Highway Department, the vehicle count was 898 vehicles in a 24 hour period. He noted that Rock Run subdivision is to the south, with nice tracts and large homes to the north. The John Hoover ditch, which is a legal drain, is situated to the east.

Mr. Pharis explained that they started doing field work in late 2009 on this site. At the time 10 borings were being conducted the petitioner was approached by one of the neighbors about his interest in purchasing some of the acreage. While no definite price or amount of acreage has been established, the potential buyer is working with his bank. Mr. Pharis explained that a 100 foot strip, from C.R. 29 to the balance of the property has been withheld. He noted that this allows Warner Farms to continue farming the land until a decision is made concerning the property. If the buyer wishes to farm the property he'll have access. However, if the best use is determined to be residential there will be ample room to put in a county road.

Mr. Pharis explained that Rock Point consists of five lots, with three located on the north

and two on the south. The northern three lots will require a mound septic system. He stated that a specialist has been hired to design and review those with the Health Department to ensure that they can meet the standards. He said that perimeter drains are proposed along the back at an outlet that will continue along in an existing drainage pattern that dates to at least 1977. He explained that the southern two lots have soil that supports conventional septic systems. As noted by Mr. Pharis, each lot has been designed with a 50 ft. area for access and is specifically shown on each lot post. He explained that the 50 foot access points were selected to maintain separation between driveways and in possible alignment with the west side of C.R. 29. He went on to say that the line of sight surveys for each lot were submitted to and reviewed by the Elkhart County Highway Department demonstrating compliance with the regulations regarding direct access to the county road. He noted that each lot exceeds 1.5 acres after dedication of a 40 foot of right-of-way.

Mr. Pharis stated that they have demonstrated that each lot will have sufficient land for septic and will meet curb cut standards. He noted that each lot has residential/garage footprints supported by the size of the lot and they will match existing homes in the neighborhood. He went on to say that they have required drainage calculations and retention calculations for each lot. With primary approval, they will submit covenants and restrictions to protect not only their homes, but the homes of adjacent property owners. He explained that upon approval, they would also submit a plat which would include any easement that would go to John Hoover Ditch reflecting that participants with perimeter drains would have access. They would also submit a Storm Water Protection Plans which comply with the Elkhart County Soil & Water Department, as well as proposed construction plans for each lot to meet MS4 requirements. He indicated that once a favorable recommendation is received they will submit sufficient data to ensure that they are compliant with the subdivision ordinance, Highway Department, Health Department, Soil & Water Department and Surveyor's office.

Mr. Sharkey asked if they are re-routing the swale to the property line. Mr. Pharis pointed it out on the aerial photo. He explained that he has made an agreement with the surveyor's office that if the rear parcel is developed and realigned, they will work with the Drainage Board to gain approval for direct access to the legal drain.

Mr. Doriot asked if they will be putting a swale in the back yard. Mr. Pharis replied that they did plan on doing so, and indicated that it was shown on the drawing.

There were no remonstrators present.

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

Mrs. Wolgamood noted that all the regulations have been met, resulting in the inability of the Plan Commission to deny the request. However, she doesn't understand how it qualifies for a major subdivision because no new roadways are being constructed. She expressed concern that county roads are being stripped off. She stated that the County Highway Department has changed their regulations, although the Plan Commission has tried for years to not let this happen. She acknowledged that it meets the criteria, but she does not agree with it.

Mr. Sharkey said he agrees, but this road has already been stripped off.

Mrs. Wolgamood acknowledged that fact, but stated that she has concerns about mound systems on the northern three lots. She felt that it might be somewhat detrimental, stating that it could be a 3-1/2 or 4 acre tract on which a house could be built, instead of three additional driveways on the north and two on the south. She expressed appreciation that it was presented as a major subdivision rather than a minor subdivision since major subdivisions necessitate a public

hearing and notification of neighboring property owners, whereas, no public hearing is required for minor subdivisions and people are not notified of the plans until after the fact, which is sometimes problematic.

Mr. Doriot stated that the topography of the lot will help with the drainage pattern. He explained that sodded lots are more successful in reducing the run off than a plowed crop field. He believes that vehicle count was the issue with the Highway Department. He noted that Mr. Pharis has successfully shown that the water from the north can be properly handled and that it meets the subdivision control ordinance.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Burbrink*) that this request for a five lot major subdivision be approved by the Advisory Plan Commission in accordance with the Staff Analysis with the following condition imposed:

1. Easement for the swale that was requested by the Highway Department and the Soil and Water Conservation District (storm water pipe discharge onto another property).

The motion was carried with a unanimous roll call vote.

7. The application for a zone map change from M-1 PUD to M-1 for ***Holly Company, LLC (lessor) and 3 Cross Ministries (lessee)***, on property located on the North side of CR 6, 450 ft. East of John Weaver Parkway in Cleveland Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #28735CR 6-110321-1*. Mr. Nemeth noted he received no letters of remonstrance.

Mr. Burbrink asked about the history of the property lines. Mr. Nemeth stated that the John Weaver Parkway was curved when it was formerly known as the Nappanee Street Extension. He noted that looking at it from 1973, there were plans to extend the road based on the planning and development for the area. Some of the remnant parcel, however, reflect that it never happened. Mr. Burrow interjected that C.R. 6 replaced that concept.

Larry Hochstetler, 231 North Drive, Elkhart, was present representing the church. He is working with the church to get some issues resolved. He stated that the church conducts associated religious education classes in addition to operating a daycare. He noted they are not proposing any changes to exterior. They have identified the parking and believe that it meets zoning requirements. He explained that drainage on the site is existing. On the east side of the property line is the Osborne Ditch which extends to the south and to the north. The access from C.R. 6 includes a single curb cut that goes around to many curb cuts.

Mr. Hochstetler stated that previously there was a septic system to the south of the original building, between the building and C.R. 6. He said that when C.R. 6 was developed, damage occurred to the system. As a result of the damage, they were connected to the municipal system. Presently, there is no septic on site and water is supplied by an existing well.

When discussing building setbacks, Mr. Hochstetler indicated that there is 60 feet, plus three sets of buildings to the north, west, and south. To the east there is, at one point, a minimum of 52 feet to the property line, with the Osborne ditch situated on the east side of the east property line.

They are asking that the zoning be changed from M-1 PUD to M-1. This would allow the church to be developed in the M-1 zone through the Special Use permit, for which they are applying. He noted that his interpretation of the specifications in the zoning ordinance permits the development of a church in an M-1 zone. He remarked that when they looked at the PUD, the only stipulation was that the property be used for manufacturing. They are not proposing a change at this

point to anything other than what the property is, apart from dropping the PUD. By allowing for this use on this piece of property, the petitioner will be able to provide services to support local residential areas around the site, specifically to the north, west, and east.

He also noted that the traffic on site would be minimal. Industrial traffic occurs during the week, from Monday through Friday. The bulk of the traffic would occur on Sunday, when there is no manufacturing traffic in the area.

Mr. Doriot said Osborne is a regulated drain, and if expansion was desired at a later date, it would be necessary to go through the Drainage Board.

There were no remonstrators present.

A motion was made and seconded (*Yoder/Burbrink*) 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 (*Yoder/Burbrink*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change be approved 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 R-1 PUD to R-1 for ***Elkhart Christian Academy represented by Architectural Grouping III, Inc.***, on property located on the Northeast corner of CR 22 and CR 9 in Concord Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #25943CR 22-110421-1*. No letters in remonstrance were received.

Gary Frank with Architectural Group, 3201 S. Nappanee Street, Elkhart appeared on behalf of the petitioner.

Mr. Warner asked if the proposed lighting would be visible when traveling on the bypass. Mr. Frank responded that the lighting will not affect the Bypass, however, passing motorists will likely notice the stadium lighting. He clarified that the lights will be on east and west sides of the field, going towards the field.

There were no remonstrators present.

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

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Doriot*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change be approved in accordance with the Staff Analysis. After a unanimous roll call vote was taken, the motion was carried.

9. The application for a zone map change from a Detailed Planned Unit Development-M-1 to M-1 for ***Mitchell & Tracy Lynn Dewitt***, on property located 2,000 ft. North off of US 33, 2,600 ft. West of CR 3 in Baugo Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #0US 33-110413-1*.

Mrs. Wolgamood asked if the petitioners were the property owners in 2007 when it was originally approved. Mr. Nemeth stated that there was a different property owner at that time.

Mitch Dewitt, 28210 Markle Ave., Elkhart, was present on behalf of his request. He said that the previous property owners were his in-laws. His mother-in-law passed away and he purchased the property last year. He stated that he owns several vehicles which sometimes require

repairs. He would like to erect a pole building which would provide him with a place to work on his vehicles. He noted that when he obtained a permit, he was advised to work with an architect. The architect he hired informed him that he used to be on the board, and went on to say that the property should be zoned M-1 rather than M-1 DPUD. His architect provided him with paperwork to complete and directed him to file it with Planning & Development. Mr. Dewitt reiterated that it is his desire to place a pole building on the property which would give him a place to work on his pick-up trucks.

Mr. Yoder commented that the use is probably okay, but he inquired about the best plan of action for Mr. Dewitt. He asked if Mr. Dewitt needs to go back and hire someone to modify the PUD for that specific use. Mr. Kolbus replied that one option is to amend the PUD to allow this specific use and amend the site plan.

Mr. Burrow noted that the specific requirement to extend sewer and water, which was agreed to, is a big hurdle. However, he acknowledged that the extension of sewer and water was not in the near future. Mr. Dewitt stated that he inquired about the sewer and water and he was informed that everyone on Nappanee Street had a sewer and well. It was his belief that he could drop in a well and sewer. He stated that he did not need water, as he did not require a bathroom.

Mr. Burrow noted that with the original PUD, the applicant was reluctant to submit adequate information to determine if the site was buildable, in terms of septic and soils. This resulted in the requirement to extend sewer and water. He stated that the petitioner would be expected to submit adequate information to comply with the standards of the DPUD process. However, he cautioned that it is a costly process.

He explained that because the Plan Commission and Commissioners had established a condition that sewer/water had to be extended, it was the staff's opinion that it was not a minor change to establish a repair building.

Mr. Sharkey said he doesn't want to encourage the petitioner to spend a considerable amount of money, only to get denied later on. He expressed his belief that it would be unfair to the petitioner. However, he stated that he does not have the information needed. Mr. Burrow noted that there is a GPUD process, and while the petitioner would incur additional filing fees, the GPUD process requires less extensive engineering information than a DPUD. He stated that some developers have opted to go that route. While this may be the best approach to aid in keeping his costs down, it would still result in another step and three months of work, according to Mr. Burrow.

Mr. Kolbus noted that in the Staff Report, it states "should water or disposal of effluent become necessary for building, the owner shall be required to extend Elkhart City Sewer." The petitioner has indicated that it is not necessary for this building so it is feeling that all he needs to do is amend the site plan to allow for this specific use.

Barry Pharis was in the audience and he indicated that he was involved with the original DPUD and knows why that condition was placed.

In reviewing the ordinance in the file, Mr. Burrow relayed that the condition states that the security building, as shown on the original site plan, will have no running water, shall be located within 150 ft. of the east property line. Should water or the disposal of effluent become necessary for the security building, the property owner shall be required to extend city sanitary sewer to this site.

Mike Friend, a resident of the subdivision to the west of property, was present to speak against the request. He stated that he appeared before the board four years ago to voice his opposition. He remains opposed and cited the noise and racket surrounding the neighborhood,

specifically mentioning the rail yards. He also conveyed frustration with the pollution from VIM as well as the noise from Shupan Recycling. He stated that the property is adjacent to his neighborhood. He expressed concern that while Mr. Dewitt is simply interested in erecting a pole building, rezoning the property for light manufacturing will open up the flood gates for future expansion. Furthermore, he is worried that there will be additional noise, as well as trash, much like the trash that presently blows out of the hoppers and floats around in the creek. He stated that he is voicing opposition on behalf of his neighbors that could not be present.

Mr. Doriot then asked for input on the condition of the site from Mr. Pharis.

Mr. Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th St., Goshen, stated that if Mr. Dewitt had contacted him he would have suggested a DPUD that specified there would be no well or bathroom. He would have recommended that the paperwork indicate a single building to be used by Mr. Dewitt for working on his own vehicles. The site plan would reflect that no commercial business would be on the property, as it is his personal land intended for his personal use. Furthermore, there would be compliance with the requirements of the original PUD. Mr. Pharis expressed his belief that straight rezoning would be a horrible mistake. While it would be an advantage to Mr. Dewitt, it would be a disadvantage to the surrounding property owners who own residential property. He went on to explain that the PUD was set in place in such a way that those property owners were protected. It was going to be a storage site for the transport of manufactured houses, campers, etc., and the security building was going to be a mobile trailer so somebody could sleep in it. It was going to be self contained with its own water, own electricity, etc. In fact, it was used as that for a while, but in August 2008 there were no more transported vehicles.

Mr. Pharis noted that he understands the Board's position. The Board does not want to direct Mr. Dewitt to take additional steps and incur expenses, only to re-appear before the Board and be turned down. Mr. Pharis offered to prepare a proposal for Mr. Dewitt, with the caveat that if the Board does not approve it, he will not bill Mr. Dewitt for anything other than filing fees.

The petitioner shared that he had to quit parking units in that area due to repeated thefts. He stated that the problems emanated from the neighborhoods to the east and to the west. The presence of the security guard, as well as the nearby home residence of a police officer, did not deter thieves. Therefore, he hoped to put in a pole barn at that location. This would allow him to work on his vehicles while enabling him to lock things up.

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

Mr. Doriot confirmed that if a vote was taken at this time, with approval being denied, the petitioner would not be able to ask for a similar request for six months. Mr. Kolbus explained that Mr. Dewitt had requested a straight rezoning, but if he would request an amendment, that would be significantly different so he could re-file immediately.

Mr. Doriot explained that Mr. Dewitt could withdraw and re-file as an amendment to his DPUD, or he could continue on. If he elects to continue on, but he receives an unfavorable outcome, he could plead his case with the Commissioners. Mrs. Wolgamood suggested that he could table his request until he had a chance to talk with Mr. Pharis on how to proceed.

Mr. Yoder doesn't see any advantage to tabling the request.

Mr. Warner said he would like to see the hours of operation noted in the proposal.

Mr. Yoder asked the petitioner if he would like the Board to table this request and he replied yes.

The Board examined said request and after due consideration and deliberation, a motion was

made and seconded (*Doriot/Yoder*) that this request for a zone map change from a Detailed Planned Unit Development-M-1 to M-1 be tabled until the July 14, 2011, Plan Commission meeting as requested by the petitioner. A unanimous vote was taken and the motion was carried.

For clarification, Mr. Burrow explained that should the petitioner modify the request to amend the DPUD, the Plan Commission would waive any filing fees. Mr. Kolbus said the neighboring property owners would have to be renotified because it is a change in the petition.

Mrs. Wolgamood questioned the filing fees for a rezoning and a DPUD and Mr. Burrow said both are \$300.

A motion was then made and seconded (*Wolgamood/Burbrink*) that the filing fee to amend the DPUD be waived. After a unanimous vote was taken, the motion was carried.

10. The application for a zone map change from R-2 to B-3 for ***Elena Moreira*** on property located on the Northeast corner of CR 20 (Mishawaka Road) and Paul Street in Baugo Township was presented at this time.

It was noted that the May 12, 2011, public hearing was closed.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #28295CR 20-110404-1*.

The petitioner is not present, but he said she has asked that the Plan Commission table this request until the August 11, 2011, Plan Commission meeting so she can apply to the Board of Zoning Appeals for a Use Variance, which would allow both land uses on the property. This would allow her to have an answer from the Board of Zoning Appeals before she comes back to the Plan Commission in August. Mr. Nemeth reported that he has sent copies of the Staff Report to the neighbors who were present in opposition to this request at the public hearing in May.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Yoder*) that this request for a zone map change from R-2 to B-3 remain on the table until the August 11, 2011, Plan Commission meeting as requested by the petitioner. A vote was unanimously taken and the motion was carried.

11. The application for a zone map change from B-1 to B-3 for ***Henry & Martha Towne*** on property located on the West side of Nappanee Street, 146 ft. South of Pennsylvania Ave. in Baugo Township, was presented at this time.

It was noted that the May 12, 2011, public hearing was closed.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #1405SNappaneeSt-110404-1*. Attached to the Staff Report is a letter to Mr. Towne dated June 1, 2011, which includes five areas of interest that Mr. Kanney feels should be mitigated to go with a straight rezoning.

Mrs. Wolgamood asked if deed commitments should be attached to a site plan and Mr. Kanney said there is a site plan in the packet.

Seeking clarification on the letter, Mr. Yoder said the five areas listed as issues could be mitigated by written commitments, but he could interpret the five statements as written commitments. Mr. Kanney said they didn't want to speak for the Board or petitioners, but they wrote them in a way so they could automatically be attached.

A concern was then expressed regarding the number of autos for sale.

Item number two addresses the percentage of a building being destroyed and Mr. Miller wondered what percentage of the building needed to be damaged before it was considered

destroyed. Mr. Kanney responded that it was 60%, which he noted is the county law.

Mrs. Wolgamood inquired if the auto repair was intended strictly for cars and not trucks. Mr. Kanney said they only discussed car repair.

When Mr. Miller questioned the 46 ft. setback is from the road right-of-way to the front of the building, Mr. Kanney said the Board would have to ask the petitioner for information concerning the right-of-way.

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

Mr. Kolbus clarified that the new State law does not take effect until July 1st. It is his understanding that today the Board is trying to ascertain what commitments the petitioner would be willing to make. If there is a consensus that the Board would pass on a favorable recommendation with those commitments, this request would be tabled to the July meeting with the intent that they would accept the commitments at that time. If there is not a consensus by majority of the Board for the favorable recommendation, even with the commitments, then the Board would act on the petition for a straight B-3 rezoning.

Present on behalf of the request was Corky Towne, the property owner. Also present was Greg Weaver, owner of Autobahn Automotive, who is renting the property from Mr. Towne. Mr. Towne indicated that they accept all of the terms; however, he noted that the report indicated five cars with a staff recommendation of three cars. He went on to say that the problem with the property is that the State is widening the road and it is difficult to envision how the property will look upon completion.

Mr. Yoder asked if the 46 ft. setback from the building to State Road 19, as reflected on the site plan, is measured from the building to the edge of the road. The petitioner responded in the affirmative.

Mr. Towne also wanted to clarify that Greg Weaver works on vehicles for other businesses. It is possible that some of those vehicles may appear to be for sale, however, he is not the seller. For instance, there may be some cars in front for sale and there could be some in back for repair. While the vehicles in back may appear to be for sale, they are just on the property awaiting repair.

Until the road is completed, Mr. Towne doesn't know how the entrance will look when entering from State Road 19. At this point there is a house that mostly blocks the property.

They would like to have four cars out front, with repairs taking place in the rear. There may be occasions where there are only one or two cars, or possibly none for sale. The petitioner will buy cars and then sell them.

Mr. Miller stated that there doesn't appear to be a way to differentiate between the cars the petitioner is selling or cars for sale by others.

Mr. Doriot stated that Mr. Weaver could provide a written commitment stating that he would not allow sales of cars on his property for which he is not in direct control. However, Mrs. Wolgamood does not feel that ownership of the cars is an issue, as long as the number of allowable cars is stated.

Mr. Towne said they would like action on this request today, but they would be agreeable to wait until July 1st to come back with commitments. Mr. Doriot explained that no action can be taken on this matter due to the fact that the law does not take effect until July 1st. However, he said the Board is able to provide them some consensus at this time.

In reference to the earlier discussion about destroyed homes, Mr. Kolbus recommended

specifying the 60% rule. Additionally, there would be a change from three cars to four cars.

Mrs. Wolgamood asked for clarification about the type of vehicles being repaired, specifically cars or trucks. Mr. Weaver indicated that the largest vehicle he would be able to accommodate would be a pick-up truck. He would repair trucks no larger than light-duty pick-up trucks, and would refer requests for repair of larger vehicles to different repair businesses. Mrs. Wolgamood stated that he would be allowed to do repair and sales, which is what the petitioner is requesting.

Mrs. Wolgamood stated that she was in favor of #5, which states “the front yard setback is 15 feet from the property line.” That is a county ordinance so it is up to them to prove where that line is. If there’s an issue and code enforcement goes out, they have to do a survey and prove where that property line is and they have to go back 15 feet.

Mr. Doriot suggested the petitioner approach INDOT as they are widening the road and request that they mark the property line. He indicated that INDOT will not do so unless they are asked.

In response to the petitioner’s request for some type of commitment, Mr. Kolbus stated that by tabling the request until July indicates a consensus that the Board will pass on a favorable recommendation.

For clarification, Mr. Miller said the changes they are anticipating agreeing on in July will include a statement regarding the 60% rule, as well as changing item #4 from three cars to up to four cars and/or light duty pick-ups.

There were no remonstrators present.

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

Mr. Kolbus advised that the staff will work with the property owner to gather information. A signed commitment will then be presented at next month’s meeting. If it is approved, it will be passed on to the County Commissioners.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Holt/Lantz*) that the Advisory Plan Commission table this request until the July 14, 2011 Plan Commission meeting. After a unanimous vote was taken, the motion was carried.

12. Mr. Burrow submitted a letter to the Board [*attached to file as Staff Exhibit #1*] from Aaron Wellington, Acquisitions Operator for Pecan Plantation Limited, the owner of the remaining tract of **Crystal Pond**, which is located on the Southwest corner of CR 6 and CR 10 in Cleveland Township. According to Mr. Burrow, they are asking to extend the GPUD portion of this PUD for a period of two (2) years.

A motion was made and seconded (*Doriot/Wolgamood*) that due to the current economic conditions, the Advisory Plan Commission grant the extension of this GPUD for a period of two (2) years. After a unanimous roll call vote was taken, the motion was carried.

13. At this time, Mr. Miller expressed some concern about helping people make some decisions and if that places some kind of commitment on the Board. Mr. Kolbus said it places no commitment on the Board. He said the requests are often times tabled allowing the petitioner a chance to investigate the options. Mr. Kolbus explained that he exercises caution to make sure the Board is not in a position where they are over committing.

14. ***State Planning & Zoning Changes***

Mr. Kolbus informed the Plan Commission that there are some upcoming changes in state zoning law, effective July 1, 2011, which he will review with the Board. He would also like the Board to consider adopting some changes to the Plan Commission rules which will take effect on July 1. He indicated that there are additional changes to the law that he will not cover today because the State plans to conduct a seminar to help clarify the changes as they are confusing, not only to him, but to others who have used them. Such changes include having a Hearing Officer for the Plan Commission who can hold public hearings and make decisions on their behalf. While he doesn't think the Board will want to do that, he suggested that once there is an understanding of the law, it may become apparent that there is an avenue to expedite the subdivisions process. However, he cautioned that the Board may not want to use this approach for rezoning or other areas. Additionally, the appeal process, which was formerly two sections, now consists of nine or ten sections long.

With a Power Point presentation, of which a printed copy was submitted to the Board *[attached to file as Staff Exhibit #1]*, Mr. Kolbus noted that the first area of discussion was the vacation of plats. Under this law there is the old code section which allows you to vacate all or part of the plat by agreement of all the owners of land in the plat. This can be accomplished by a declaration. No Plan Commission action is required if nothing has been done to the property. If nothing has been done, the owners sign the declaration and it is recorded. That aspect has not changed. If they have sold a lot or constructed improvements, it needs Plan Commission or Plat Committee approval. The main change in this area is that it may be approved without notice or hearing. If there is a situation where everyone is in agreement, it comes to the Board and they handle it as a staff item for approval, which he said is a big change.

An additional change to code pertains to I.C. 36-7-4-711. When all owners in the plat are not in agreement, it is still permissible to apply to vacate all or part of the plat. Contained within the petition, the owners must include the reasons for the request, a description of the property to be vacated, and the names and addresses of every other owner of land in the plat. Additionally, there can be a request to vacate any recorded covenants filed as a part of the plat. Mr. Kolbus speculated that this change occurred as a result of someone successfully getting all or part of a plat vacated underneath someone who had no knowledge of what happened. He noted that before there was a vacation of plats there were no standards. It was possible to simply file a petition to vacate.

Mr. Kolbus explained that the Plan Commission shall prescribe rules. The first rule pertains to the required notice. In addition to the regular notice in the newspaper, every owner of property on the plat must be notified in writing. The law states that the Petitioner shall pay all expenses of the required notices.

Using a 400-lot subdivision as an example, Mr. Doriot asked if all 400 property owners would need to be notified if he wanted to vacate an alley, which is part of the plat. He noted that a simple alley vacation could now cost thousands of dollars due to the changes, which specify that the entire primary receive notification, instead of just the property owners adjacent. He interprets that the plat is the entire primary.

Mr. Kolbus said the law doesn't state they have to look at that at the time, it would be whatever had been approved. He stated that if the entire plat is approved and the lots were being done in sections, it would be all the lots plus the big area. 10:53:39 AM At that point everyone must be notified of the hearing and given the opportunity to comment on the petition, which is already covered in the rules.

Three standards for vacating the plat were then given. These standards specify that the

conditions in the plat have changed as to defeat the original purpose of the plat, it is in the public's interest to vacate, and the value of the land in the plat not owned will not be diminished. All three standards must be met, which is something new.

As part of an approval, there are two things to consider. Reasonable conditions can be imposed, and commitments can be allowed and/or required. He indicated that it will be prevalent throughout to require or allow commitments for subdivisions, plat vacations and rezonings.

He explained that there are standards for vacating recorded covenants that are filed with the plat under any one of the three conditions.

He went on to address requirements for members of the Plan Commission. Citizen members must meet one of the following requirements: be a resident of the unincorporated area of the county or be a resident of the county and own land in the unincorporated area. Two of the citizen members no longer must reside in the unincorporated area of the county as long as they own property in the unincorporated area. He believes this will provide a little greater lee-way in finding board members.

The Plan Commission shall determine whether citizen members meet residency requirements in accordance with Plan Commission rules. He explained that he did not adopt this rule because he would like input from the Plan Commission concerning how residency can be confirmed. He believes that this change came about when someone on a Board appeared to be unduly prejudiced and the Plan Commission had no way to address it because they are appointed by council or commissioners.

There was some discussion about meeting residency requirements. One suggestion involved providing a mailing address within the county, while another suggestion involved the Homestead Exemption. However, there was concern expressed about renters. Mr. Kolbus noted that confirmation is necessary, and he suggested they could file an affidavit. He explained that the Board has to come up with some rule to confirm residency.

Mr. Yoder asked about residents who spend four months a year in Florida. Mr. Doriot explained that presently, every Homestead Exemption in the county is being reviewed. Those with a Florida address receive a phone call concerning their residency. They face the possibility of losing a Homestead Exemption as they are allowed only one, either in Indiana or Florida.

Mr. Kolbus explained that more detail has been brought to the member disqualification area. Under the new law, a member is disqualified from participating in a legislative act (making a recommendation on a comprehensive plan, an ordinance, a PUD, rezoning or text amendment) when there is a direct or indirect financial interest in the matter. The next area concerns making the final call of a zoning decision. This occurs when dealing with subdivision, a plat vacation and commitment modifications and determinations. When that situation arises, it becomes necessary to look at two different standards with the first being the ability to remain unbiased, impartial and unprejudiced. Mr. Kolbus recommended that board members exercise caution after July 1st concerning spoken comments. The second standard has to do with the possible direct or indirect financial interest in the outcome of the decision.

Mr. Miller stated that he is the recipient of commission when a number of clients around the county buy from him. He wondered if that would be considered financial interest if they appeared before the Board. Mr. Kolbus responded in the affirmative.

Another change is that the Plan Commission may not directly or personally represent a person before the Commission on a zoning decision or a legislative act. If a member is disqualified, the appointing authority may appoint an alternate member for a zoning decision

only, but not for a legislative act which is a recommendation.

If an appointed member misses three consecutive regular meetings, the appointing authority may treat the member as resigned. He then clarified that this stipulation is for regular meetings only and that special meetings do not count.

When addressing the issue of Authority, Mr. Kolbus stated that he was going to refrain from sharing information until he has attended the seminar. He would like clarification concerning what is meant when it is stated that the Plan Commission may adopt rules setting specific procedures to facilitate informal settlement of matters. The Plan Commission must pass rules regarding the informal settlement, but Mr. Kolbus said he's not sure what they mean. He said it appears that the Board has been given authority to have the petitioner come back with a set of conditions.

I.C. 36-7-4-702 specifies that the standards fixed in the subdivision ordinance may be waived by Plan Commission or Plat Committee. The plat must still meet all applicable standards of the Zoning Ordinance if not varied by the BZA. It may require a commitment as a condition of granting the waiver. Mr. Kolbus explained that most standards set by the Plan Commission are adopted by reference, such as the highway standards, and most of the Plan Commission standards are the zoning ordinance. Any of the standards in the subdivision ordinance that are not already set in the zoning ordinance can now be varied as part of the process. Technically, he thinks that gives them the right to vary highway standards, although that may be met with limited success. While lot size falls under zoning ordinance, the Board may now have authority to waive certain conditions, such as street access. Clearly, this change produces a little more flexibility.

In I.C. 36-7-40-402, the time limit for filing an appeal for the Plat Committee has been changed from 14 days to 5 days.

I.C. 36-7-4-1015 is the commitment law. As a condition to the adoption of a rezoning proposal, either a map or a PUD, primary approval of a plat or approval of a vacation of a plat, the owner can be required or allowed to make a commitment to the Plan Commission concerning the use or development of the parcel. The old law stated that commitments were allowed at the PUD level, but the law would not allow them to require them. Now the law clearly states that commitments can be required. Effective July 1, 2011, they now have conditional rezoning in Indiana, which may or may not be a good thing. Mr. Kolbus stated that in the past, there were multiple full blown PUD's that he felt could have been accommodated by a commitment with a number of conditions. In those instances, it would have saved the petitioner time and money. However, when dealing with more than four or five conditions it is best to go through the PUD process.

Mr. Miller expressed concern about possible complications brought about through the use of commitments. For instance, if something were to be allowed in an M-1 zone that may or may not be under the umbrella of M-1, he asked if a future petitioner could challenge that it was previously allowed in another situation. Mr. Kolbus said they could argue that point, but each petition is supposed to be based on its individual circumstances. The request for a commitment does not obligate anyone to give final approval, including the commissioners. The commitment is requested as part of the favorable recommendation, but the commissioners still have the final say.

As previously discussed, the judicial review deals with Plan Commission decisions. In the past, if a petitioner filed an appeal to the decision it was thrown out of court due to the fact that they were appealing a recommendation and not a final decision. The new law allows people

to get judicial review of a non-final decision if they can show two factors: immediate and irreparable harm, and no adequate remedy of law exists.

In I.C. 36-7-4-1609, Mr. Kolbus said a person seeking a stay of decision pending court review must post a \$500 minimum bond. When the court reviews a decision, they may remand it back for further proceedings, or they can compel a decision. The court can make their own decision if they are of the belief that it has been unreasonably delayed or unlawfully withheld. In his experience with the courts, Mr. Kolbus said if they found a procedural or substantial problem they generally send it back to the Commissioners, BZA or Plan Commission with an edict to correct the problem and then resubmit it. Now, however, he said the court is able to make their own decision regardless of what has transpired.

15. Based on the changes in the state law, Mr. Kolbus said he has included in the board's packets proposed changes to the *Rules of Procedure*. He asked that the Board make these changes to their Rules of Procedures to be effective July 1, 2011.

Mr. Burrow then submitted to the Board a proposed revision to the Written Commitment form (Exhibit C) from the changes Mr. Kolbus had provided in the packets *[attached to file as Staff Exhibit #1]*. This proposed change is in item number six and deletes the wording "or the adoption of a PUD ordinance".

Mr. Doriot asked if the changes meant he would no longer be allowed to present his petitions, but Mr. Kolbus recommended that he talk to county attorney Gordon Lord.

Mr. Yoder asked if the ability to have someone fill in for Board of Zoning Appeals carried over to the Plan Commission. Mr. Kolbus stated that his understanding of the change is that the only way an officer can be appointed is if there is a disqualification on a zoning matter.

Mr. Kolbus then noted his agreement with the amendment to the Written Commitment form proposed by the staff (Staff Exhibit #1).

A motion was made and seconded (*Wolgamood/Miller*) that the Advisory Plan Commission approve the amendments to the Plan Commission Rules of Procedures, including the staff amendment to the Written Commitment form (Exhibit C), to take effect July 1, 2011 (*see attached*). The motion was carried with Mr. Doriot voting in opposition.

16. In discussion regarding the *Zoning Ordinance* Mr. Yoder recalled that a public hearing was held in April on proposed Draft E. At the end of the public hearing a vote resulted in the decision to not send it on to the county commissioners because it was felt that it was not ready. A decision was made at that time to discuss the next steps at the June meeting.

Discussion ensued concerning whether the Board would start from scratch, or work to modify the existing document. Mr. Warner recalled that he asked if they can continue utilizing the proposal and modifying it from what they learned, but Mr. Doriot indicated that was not part of his motion.

Mrs. Wolgamood stated that it was her understanding from the beginning that we do not own the ordinance so if it was denied, any portion of that ordinance could not be used. Mr. Yoder said that they will own the ordinance once it is approved by the county commissioners. The legality as he understands it is that Ground Rules cannot have their name on a document that they have not fully completed to being passed. If they take that document now and work on it without Ground Rules being involved, there may be some liabilities.

Mr. Kolbus clarified that Ground Rules has an interest in protecting the formatting of the

document. There are many provisions that are standard provisions throughout other ordinances, as well as standard diagrams. He stated that he wrote the enforcement section so to say that the entire document belongs to Ground Rules is untrue. Caution would need to be exercised concerning what is taken out and how it is used. While the formatting is clearly Ground Rules, he said they are able to take out certain ideas and language sections. However, Mr. Kolbus noted that at some point there will be a line that cannot be crossed, but he can't tell the Board what that is today.

Mr. Doriot went on to say that he has seen other ordinances that appear to be formatted similar to Ground Rules formatting; however, they are not Ground Rules'. He feels the language can closely resemble Ground Rules without crossing the line.

Mr. Kolbus then reviewed the Board's motion for denial from the April 14, 2011, public hearing on proposed Draft E of the zoning ordinance.

Mr. Yoder explained that the Plan Commission could ask the commissioners for additional funding to hire Ground Rules and complete Draft E, or they can decide on a different course of action.

If the Board is not going to complete Draft E and use it as a reference document, Mr. Kolbus said the Board will need to be cautious concerning how the document is used. Mr. Doriot stated that he has no issues with using it as a reference document. However, he does not want to take Draft E, as it stands now, and proceed with the idea of starting again. He likened Draft E to a monolith which was steadily chipped away at rather than taking it out to everybody and asking what they wanted.

Mr. Warner noted that a communication plan needs to be developed and analyzed once a new Plan Director is in place. He suggested spending six months on this task to adequately determine what went wrong and what areas would benefit from change. He believes that the approach taken with the communication plan resulted in problems. It needs to be presented in such a manner that lay people understand what is meant. For instance, more detailed requirements for landscaping and home workshops, as well as the other areas that resulted in more questions. He said that there were parts that seemed to be mutually agreed upon, while noting that there were areas that still need to be defined. He voiced his support of developing a plan to move forward with those areas, in addition to improved communication with the public.

Mr. Doriot feels the plan should be developed from the bottom up, rather than the top down.

Mr. Burbrink commented that the Board may need to overcome the negative perception by the public, due to the way it was initially presented. He recommends waiting for a short period of time before proceeding, which would allow them to work in partnership with the new Plan Director. He also feels that the county is more likely to appreciate the efforts if they have an understanding of the problems. He suggested informing the public early in the process about the problems and the reasons for change, while soliciting solutions. He suggested providing clarification to the public about the rules that are governing the Board, and consequently them. He also suggested a retreat where board members would have the opportunity to determine a more in-depth approach as to what needs to be done.

Mr. Miller commented that trying to understand this document in its entirety is challenging. He believes that it needs to be broken down into smaller segments, which would result in a better overall understanding.

Mr. Sharkey agreed and wondered why the whole thing had to be done at once. He suggested reviewing the old ordinance, using parts of the new ordinance without infringing on Ground Rules' patents, and working on one section at a time.

Mr. Miller said he talked with Mike (Stump) from Forest River and he was very complimentary about how things were handled. He said Mr. Stump indicated an interest in working with a group of people on a subcommittee who would put together the process. Mr. Miller explained that those involved in the process will have a better understanding of what is going on. They will then be able to explain to others, and in essence, be a salesman for the system.

It was Mr. Warner's opinion that the people involved in the process must be able to see the big picture and not have tunnel vision like some have developed on this document.

Mr. Miller added that people are far more likely to trust someone they work with or for using Galen Miller who works with the Amish as an example. He suggested that Galen Miller could be on the committee that discusses setbacks, and Mike Stump could be on the committee involved with manufacturing. In emails he's received, Mr. Miller senses an interest and willingness to proceed in this direction.

Mr. Burbrink stated that the process is just as important as the ordinance itself. He believes that the best approach is to make citizens aware that there is a problem, present the problem or concern, and indicate a desire to work together to resolve the problem.

A good model according to Mr. Holt is the Northwest Gateway where citizens looked at the problem, came up with a solution and then presented it to the Board.

Mr. Burbrink believes the important thing is to set up and follow a process in which the public is involved and actively providing input. He recognizes that this will take time, but he believes that this is best approach.

Mr. Lantz suggested creating a list of issues that need to be addressed, whether it was zoning, setbacks, number of livestock, or other areas, and then present the issues and/or challenges to the focal groups and ask how they would address these challenges. The areas of concern would then be revisited by the Board.

Mr. Sharkey stated that Elkhart County is not like any other county and you can't pattern them after someone else because Elkhart County is so diverse with manufacturing, nice housing developments, and the Amish. He went on to say that Elkhart County has a lot of advantages, which should be utilized.

Mr. Yoder noted that the Board has indicated an interest in establishing some sort of a new process involving some of the ideas that were presented, preferring to wait until a new Plan Director is hired before proceeding. When he wondered what the Board would do for the next 30 days while waiting to proceed, Mr. Kolbus explained that the individual members could go through their notes, getting copies of the minutes and working up lists of issues.

Mr. Yoder expressed agreement with that plan of action, and encouraged the Board to create a list of issues. Mr. Holt said they could also identify possible individuals who could assist in moving the process forward. Mr. Burbrink interjected that they also have to plan how they are going to go through this process.

Mr. Warner questioned how they can do this in stages. Mr. Kolbus cautioned that when doing a replacement ordinance it is best to modify the whole thing, rather than section by section, due to the fact that there is a lot of interplay between the sections. If they do one section, such as the "A" zone, and then everything that affects it in the ordinance and people understand that, it might make it easier to get that through,

Mr. Miller noted that the people who are going to be on these committees are not just setting the rules, but will also act as salesmen. He believes that the sales part of it is critical, stating that they can have the best ordinances in the world, but if people do not have someone they can talk to,

or understand the ordinances, the reactions will quickly become emotional.

Mr. Doriot feels that is why the document needs to be taken out to everyone. It will still get emotional because he said you are talking about personal property rights.

Mrs. Wolgamood stated that she has no interest in spending the next 30 days reviewing and making suggestions since the Plan Director will be leaving at the end of the month. She wants to wait until a new Plan Director is established and in place.

After further discussion, it was the consensus of the Board that no action would be taken on the zoning ordinance before the next meeting.

17. Mr. Yoder then shared information with the Board concerning the hiring status of the Plan Director. He noted that more than 20 applications were received, and one round of interviews had been conducted with another group of interviews scheduled for tomorrow. He indicated that they will not have a candidate by the July Plan Commission meeting.

Mr. Doriot asked if the Executive Committee would be willing to meet with the staff each week if for some reason a viable candidate is not found. Mr. Yoder felt they should meet to decide what they are going to do between Mr. Watkins' retirement date and the hiring of a new director.

18. A motion to adjourn the meeting was made by Mr. Sharkey and seconded by Mr. Holt. With a unanimous vote, the meeting was adjourned at 11:41 a.m.

Respectfully submitted,

Teresa McLain, Transcriber

Kate Keil, Recording Secretary

Mike Yoder, Chairman