

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 12TH DAY OF JANUARY 2012 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: Roger Miller, Blake Doriot, Steve Warner, Doug Miller, Tony Campanello, Mike Yoder, and Jeff Burbrink. Staff members present were: Chris Godlewski, Plan Director; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Kathy Wilson, Office Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Burbrink/Miller*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 8th day of December 2011, be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Warner/Burbrink*) that the legal advertisements, having been published on the 31st day of December 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 (*Roger Miller/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. **ELECTION OF OFFICERS FOR 2012**

Mr. Yoder stated that Doug Miller should be added to the 2012 Slate of Officers and Appointments as the Appointment to the Board of Zoning Appeals (due to the resignation of Meg Wolgamood).

A motion was made and seconded (*Burbrink/RogerMiller*) that the Advisory Plan Commission accepts the 2012 Slate of Officers and Appointments as presented (*see attached*). With a unanimous vote, the motion was carried.

Mr. Yoder then welcomed Doug Miller as the new board member to the Plan Commission.

6. The application for the vacation of a county right-of-way known as **COMMERCE ROAD**, for Wagner Land Development Co. Inc. represented by Marbach, Brady & Weaver, Inc., on property located East of the intersection of SR 13/CR 12 a distance of 1,010 ft., North of the intersection of CR 12 extension and platted Commerce Road in York Township, zoned M-1, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #OSR 13-111202-1*. He submitted a more detailed site plan of the proposed vacation [*attached to file as Staff Exhibit #1*], which highlighted the north portion of Commerce Road, north of the extension of CR 12. Notices of the vacation request were sent to six adjacent land owners and no remonstrance has been received. He said that a cul-de-sac would be constructed in order to facilitate maintenance of the road (as shown on the site plan); therefore, the Staff recommended that they vacate the right-of-way.

Chris Marbach, Marbach, Brady, & Weaver, 3220 Southview Drive, Elkhart, was present representing Wagner Land Development. He said they were attempting to vacate the described portion of the road which had never been constructed. Mr. Marbach is working with the Town of Middlebury to construct a cul-de-sac at the end of that road, and as soon as it was completed it would be brought into compliance with the Town of Middlebury.

Mr. Burbrink inquired about the property that extends to the east of CR 12 and Mr. Marbach informed him it is the retention area for the road, which is already in place on the plat and will remain.

Also present was Jim Skillen, Grubb & Ellis/Cressy & Everett, 1127 Miles Ave., Suite 1002, Elkhart, representing both the property owner and purchaser on this site. He said the Town of Middlebury agreed to take over this road, subject to it being constructed to County standards. Wightman Petrie Engineering did some borings on the street and found some minor deficiencies. The property owner and purchaser agreed to bring the street up to code and the design work, including the cul-de-sac, had just been completed on Monday. There was an issue with semi traffic being able to turn around and concern about damage to the OSMC site, so the cul-de-sac would be constructed in a manner to handle semi turn around traffic. He stated that once the road is vacated they would ask Elkhart County Highway to remove any holds they had on a permit for this. Mr. Skillen said they planned to wait until spring for any development on site and the owners agreed to escrow the money for road improvements.

There were no remonstrators present.

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

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Campanello*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the vacation of a county right-of-way be approved in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

7. The application for a zone map change from General Planned Unit Development-B-1, B-2, B-3 to a Detailed Planned Unit Development-B-1 to be known as ***THE WAKARUSA BUSINESS CENTER DOLLAR GENERAL D.P.U.D.-B-1***, for Kemar Properties LLC (seller) and Wakarusa DG LLC (buyer) represented by Brads-Ko Engineering & Surveying, Inc., on property located on the Southwest corner of Kemar Street and SR 19 in Olive Township, was presented at this time.

Robert Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #0KemarStreet-111205-1*. He amended the Staff Analysis by deleting the last sentence in criteria #1 which states, "This proposed business qualifies as 1 of the 13 specified allowable land uses: "Existing businesses or land uses that are present within the overlay area upon adoption of these overlay standards.", explaining that he misquoted the wrong section. He clarified that the property to the west is undeveloped, and is zoned GPUD business, so they will have to come back to the Plan Commission for review before it is developed.

Barry Pharis, Brads-Ko Engineering and Surveying, 1009 S. 9th Street, Goshen, said his firm represents Kemar Properties LLC, the owners and developers of the Wakarusa Business Center and Deerfield Villas. His firm also represents Wakarusa DG, LLC, the purchaser, developer and builder of this proposed franchise. Andrew Rossell, with the engineering firm Hurley Stewart out of Kalamazoo, the engineering firm of record for Dollar General was in attendance as well.

* (*It is noted that board member Blake Doriot arrived for the meeting at this time.*)

Mr. Pharis pointed out that the small Dollar General store has been in downtown Wakarusa for years and this will be a relocation of that store. Secondary approval will be requested at the February 9th Plat Committee meeting, and if approved, the Wakarusa Town Council will approve it March. He requested that the Plan Commission give this rezoning a favorable recommendation.

Mr. Yoder asked for clarification concerning the reduction of the easement on the south side. Mr. Pharis explained that a 75 ft. drainage easement along the entire south side of this development was approved and placed on the original GPUD. When his firm became involved they started working with the residential community in designing it. He worked with James Emans, the Town of Wakarusa engineer, and the Wakarusa Tech Committee and it was decided they needed to redefine and re-establish the drainage for the site.

Mr. Pharis stated that there were complaints from the West because there was a tremendous amount of water coming from the East, under and over SR 19, through this site, and over into residential areas. Therefore, he and the Town of Wakarusa worked with the Corps of Engineers, the Indiana Department of Natural Resources, IDEM and received approval to enlarge the existing wetland on the northwest corner of the 50 acres (owned by Kemar Properties LLC). They also received approval to place a mound around it to create a much larger retention area to the west of this site, north of the residential site. Mr. Pharis pointed out the residential site from Kemar Street on the map and he said the 75 ft. strip was in the original GPUD. When his firm redesigned the residential community, they created a very large retention area and all the drainage flows through several forebays, cleansing the water into the wetland. He explained the retention/detention from all the commercial sites in a flood event ultimately ends up in that retention area, and all the calculations have been done to confirm the retention area can hold it. Mr. Pharis noted the larger retention area caused a situation where the 75 ft. drainage easement was no longer important to them. However, the Town of Wakarusa wanted to keep a buffer to the south. He explained as this development was growing, and before there was development, there was a huge hole, so his firm redesigned it so that it could be shallow with pipe, moved it to the west, collecting it and moving it to the north, in a combination of swale and pipe making it much more shallow, so it is now a dry retention area, with exception of flood events, which removes the water to the lake. He noted that is the reason the 75 ft. drainage easement was asked to be reduced.

Mr. Yoder asked if there were regulations that control or concern runoff. Mr. Pharis said there was and there will be a small area for filtration. Roger Miller thought there was going to be a mound where the waterway was located because the residents of the Town of Wakarusa wanted something to block the view. Mr. Pharis said they had changed their thinking on that and he was asked to place a 30 ft. wide easement from the south property line (described on the site support drawing) to Kemar Street and part of that is for the sanitary sewer coming from Waterford Street. If the Town of Wakarusa gets the easement they want, he said there is a 10 ft. walking path included to allow pedestrian and bicycle traffic to get to the Wakarusa Business Center.

Mr. Pharis mentioned that with the new Dollar General at that location the other existing businesses anticipate traffic increasing for all of them. Mr. Pharis was very pleased that Dollar General chose to stay in Wakarusa and he feels the site they chose will be a benefit to them and this project long term. He said the Town of Wakarusa and the Wakarusa Technical Review Committee gave their approval for this project and asked for a favorable vote.

A motion was made and seconded (*Yoder/Doriot*) 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 (*Roger Miller/Campanello*) that the Advisory Plan Commission recommend to

the Town Council of Wakarusa that this request be approved in accordance with the amended Staff Analysis with the following conditions imposed:

1. Before a building permit is issued, the Wakarusa Technical Review Committee to grant final approval for compliance with their adopted development standards in Resolution 2009-8 (i.e. landscaping, building and roofing, lighting, signage, etc.).
2. Petitioner to provide grading/elevations, lighting and storm conveyance system/calculations as noted on the site support drawing.

The motion was carried with a unanimous roll call vote.

8. The application to take public input in order to make a recommendation to the Town of Middlebury and the Elkhart County Board of Commissioners concerning an amendment to the *Town of Middlebury's and Elkhart County's Comprehensive Plan*, for the Elkhart County Advisory Plan Commission on property located within the municipal boundaries of Middlebury and the urban growth boundaries in the unincorporated areas of Elkhart County, being bordered on the North by State line, bordered on the East by Elkhart County line, bordered on the South by State Road 4, was presented at this time. Meeting reconvened.

Mark Salee, Middlebury Town Manager, followed up on questions from the last meeting. He submitted copies of the Middlebury Comprehensive Strategic Plan, with a map of the Existing Land Use Area of Influence and a map of the Future Land Use Area of Influence *[attached to file as Petitioner Exhibit #1]*.

Mr. Salee said the best work the Town of Middlebury has related to their Urban Services Boundary for water and sewage utilities was developed by Wightman Petrie as the County's Utility Master Plan. He said they are currently in the process of putting together an upgrade to their wastewater treatment plant and they will be submitting a request for a State loan and part of that process is looking at a 20 year projection on services and capacity needs. The Town of Middlebury already has plans to expand to The Summit area. He said everything else they talked about had been included in the Comprehensive Plan.

Mr. Salee said he needed an opportunity to upgrade the services boundary before the Plan Commission made a final decision. His intention was to show how broad the area of influence will be. He explained that the Town of Middlebury was not necessarily saying that all commercial uses outside of the city limits should not be allowed, but they want to have input when it comes to planning.

He said the intent for community focus was to maintain a rural small town community. The Town of Middlebury recommended keeping as much agricultural use around them as possible and directing the new developments of residential and commercial uses to the cities and towns that have existing services.

Mr. Yoder asked for clarification of the Town of Middlebury's definition of area of influence. Mr. Salee explained the Town of Middlebury was referencing an area of study and it would be their recommendation that the use for development be as established in the Comprehensive Plan.

Mr. Doriot asked, if a one acre lot was submitted to the Town of Middlebury for commercial use in an agricultural area, would they decide that it could not be developed commercially because Middlebury determined that area of influence to be agricultural. Mr. Salee said if this proposed Comprehensive Plan was adopted and the Town was asked to comment on a development at that location, he would comment that the Town of Middlebury's plan would be to keep it agricultural. Mr. Yoder observed from experience with other small communities, their Town Board would notice

all of the existing undeveloped residential areas, which would lead them to determine that there would be no reason to approve a new residential or commercial area in an agricultural area because the existing residential or commercial areas were not fully developed.

Mr. Kolbus asked Mr. Doriot if he is referring to a one lot minor or an administrative subdivision. Mr. Doriot stated administrative subdivision. Mr. Yoder's interpretation was that the Town request denial, but there is no way for the Plan Commission to deny it at this point as long as the standards were met.

Mr. Burrow stated he would also indicate that rural agriculture allows one unit per acre and the legend indicated what is permissible and what they are referencing in that rural area. Mr. Salee said the legend is primarily based upon Elkhart County's Proposed Zoning Ordinance which was denied. He felt it was timely that Middlebury was developing their plan at the same time all the work was going on with the update to the Zoning Ordinance, so his consultants worked very closely with the staff to incorporate that philosophy into their plan.

Roger Miller questioned their intention with CR 22 because there seems to be little cottage businesses developing and CR 16 has tourist attractions. Mr. Salee said the Town of Middlebury's plans still suggest that they would want to keep that area agricultural based. He said if he was asked about a special use for a home/workshop in that area, even though they are pro-business, he would comment that Middlebury's plan does not support putting a home workshop/business there. He clarified that there were discussions with the landowners pertaining to the difference between land use and zoning, because the term land use does not mean it is being used for what it is zoned for.

Mr. Salee offered for them to look at the Comprehensive Plan in more detail. Mr. Burbrink asked when they would be doing the review of the Urban Services Boundary and Mr. Salee thought they could complete that within a week. He said the only change he could envision is that it would incorporate The Summit. They included the satellite areas as potential areas that could be connected in the future. He clarified they did not include those areas as part of the Capacity Study for their expansion; they just highlighted them for the State to let them know that they were potential areas where sewer may be needed. He also thought they may have expanded a little on the Middlebury/Shipshewana Road.

Roger Miller asked if the Board wanted to table or approve this item and Mr. Yoder said he was ready to move forward and approve it. Mr. Yoder said if they change their Urban Services Boundary they would come back with an amendment. Mr. Salee said his staff would prefer that the Board adopt the Middlebury Comprehensive Plan and then it could be amended.

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

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Warner*) that the Advisory Plan Commission recommend to the Board of County Commissioners that the Middlebury Comprehensive Strategic Plan be approved as presented. The motion was approved with a unanimous roll call vote.

9. Chris Godlewski said he would like the Plan Commission, Board of Zoning Appeals, and his four managers to attend a Plan Commission/BZA Retreat and he would email them about scheduling a date. Mr. Warner asked for some meeting date options and Mr. Godlewski said he was looking at February 29th at 9:00 a.m., March 12th at 1:00 p.m. and March 23rd at 9:00 a.m.

Mr. Godlewski requested that the Executive Committee meet after the Plan Commission meeting was adjourned.

10. There was no further business, so Mr. Burbrink adjourned the meeting at 9:57 a.m.

Respectfully submitted,

Sandra Herrli, Recording Secretary

Jeff Burbrink, Chairman