

MINUTES

ELKHART COUNTY PLAN COMMISSION MEETING

HELD ON THE 10TH DAY OF MAY 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, Jeff Burbrink, with the following members present: Tony Campanello, Doug Miller, Dennis Sharkey, Steve Warner, Roger Miller, Blake Doriot, and Mike Yoder. Staff members present were: Chris Godlewski, Plan Director; Mark Kanney, Planner; Duane Burrow, Planner; Kathy Wilson, Office Manager; and James W. Kolbus, Attorney for the Board.
2. A motion was made and seconded (*Doriot/R. Miller*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 12th day of April 2012, be approved as submitted and the motion was carried unanimously.
3. A motion was made and seconded (*Doriot/D. Miller*) that the legal advertisements, having been published on the 28th day of April 2012 in the Goshen News and the 30th day of April 2012 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.
4. A motion was made and seconded (*Doriot/Sharkey*) 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. Mr. Burbrink introduced Steven Edwards, who was appointed to the Plan Commission by the Commissioners on May 14, 2012. Mr. Edwards is replacing Tom Holt.
6. The application for a zone map change from B-1 to B-3, for **James E. & Suetta Bechtel (owners) and Shamrock Development c/o Dave Hanover (developer)** represented by Brads-Ko Engineering & Surveying, Inc., on property located on the Northeast corner of SR 15 and Tarman Road, common address of 67884 SR 15 in Jackson Township was presented at this time.
Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #67884SR 15-120402-1*.
Barry Pharis, Brads-Ko Engineering and Surveying, 1009 S. 9th St., Goshen is the representative for this petition. Mr. Bechtel and his sons attended the meeting with Mr. Pharis. He said that Mr. and Mrs. Bechtel formerly operated a restaurant located at SR 15 and Tarman Road. Mr. Pharis noted that the restaurant has been torn down and removed. The building proposed for remodeling on this property was for a car wash.
Mr. Pharis displayed a site plan describing the surrounding area with only two access points to be utilized at SR 15 and Tarman Road. The Maple Avenue access is toward a residential area

and will be closed off. Mr. Pharis said the landscaping, cleaning and clearing, will be also be taken care of by Shamrock Development. He said the setbacks will allow sufficient parking for the customers and employees. He noted that the use will be similar to historical uses. Mr. Pharis said they need a B-3 zoning because Subway, by definition, is classified as a fast food restaurant and is authorized to have a drive through. He displayed a conceptual drawing (in the file for review) which he referred to while describing the flow of the drive through traffic.

Melody Hartman, 19208 Tarman Road, New Paris, said she was in favor of the restaurant, but is concerned about the traffic. She works at KMC Controls in New Paris and every day at 3:30 p.m. there is a great deal of traffic on SR 15. Her daughter goes to college and her classes are at 3:30 p.m., which is the same time that Veada employees leave for the day. She said that they can hardly get out of their driveway and there is always a long line of traffic. Ms. Hartman said her concern is the access off of SR 15. There is also a gas station along SR 15, and with no light or stop sign, accidents could occur. Since New Paris is an unincorporated town, there is no one that can help control the traffic.

In rebuttal, Barry Pharis stated that Subway does not generate traffic it captures traffic. He said Veada is a very substantial business for New Paris. With regard to the SR 15 access to the Subway, Ms. Hartman was correct stating that there is not a dedicated turn around; however, there is a 10 ft. shoulder that would allow them to get out of the travel lane and make a right turn into the restaurant. He did not think traffic would be lining up on SR 15.

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

Mr. Doriot noted they are eliminating one point of exposure into the residential area. He acknowledged Ms. Hartman's concern about traffic, but he feels there is adequate shoulder to get out of the travel lane.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/D.Miller*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis and as presented. The motion was carried with a roll call vote.

7. The application for a zone map change from A-1/M-2 Conditional Industrial Unit Development to M-2 Conditional Industrial Unit Development, for **Culver Duck Farms, Inc.** represented by Wightman Petrie, Inc., on property located on the North side of CR 10, 2,000 ft. East of CR 39, common address of 12215 CR 10 in York Township was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #12215CR 10-120326-1*. Mr. Burrow submitted an updated site plan *[attached to file as Staff Exhibit #1]*.

Mr. Burrow said Culver Duck would like to expand the scope of the property to include the entire 80 acres, because the original Conditional Use was for just around the buildings in 2006 and right now they have established more retention. Mr. Sharkey asked if it was presently well water and Mr. Burrow said it has a treatment facility on site for all of their refuse.

Ken Jones, Jr. of Wightman Petrie, 4703 Chester Drive, Elkhart, was present on behalf of this request. He said it made a lot of sense to the Staff and to the owner to perform an all encompassing zoning compliance effort to provide the entire site plan, so if they go forward in the future they would understand what they have to do ahead of time. If they decide to add to the existing building or build another building they would have to turn in a site plan to the Planning

Staff and work through the process with the Plan Commission. He said the project they are involved with specifically is highlighted in the site plan, which he feels is self explanatory. The construction Wightman Petrie has been involved with is an anaerobic digester to generate methane for electricity and heat to offset their energy costs. Mr. Jones said they also have a heat agreement with NIPSCO to sell some of that power back onto the grid. He stated that it is a \$2M project that includes 3 large generators. They have had a lot of interaction with Staff and the owner, as well as a couple of their onsite contractors. Mr. Jones agrees with the Staff report and requested a favorable recommendation.

There were no remonstrators.

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

Roger Miller inquired about drainage and Mr. Jones stated that the lagoons on site are for a large, complicated wastewater treatment facility. He said they have continuous engagement with the State Board of Health and this facility is regularly inspected. Mr. Jones estimated that they have approximately 3.5 million ducks a year. Mr. Doriot said it basically works the same way as a wastewater treatment plant.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*R.Miller/Doriot*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to M-2 and the adoption of a Conditional Industrial Unit Development Ordinance be approved in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

8. Dwight Moudy, 26894 CR 46, Nappanee, the Public Relations Director for the Elkhart County Farm Bureau Board was in attendance to communicate the willingness of the Elkhart County Farm Bureau to assist in resolving the zoning ordinance issue. Mr. Moudy stated that they felt the draft of the ordinance went too far and needs to be revised. He said they have volunteers that are willing to work on the ordinance and they offered their assistance.

Mr. Sharkey said when they begin revising the ordinance he looked forward to having a great deal of input from Farm Bureau and other organizations in Elkhart County. The Plan Commission thanked Mr. Moudy for approaching the Board with this request and looked forward to their participation in the future.

9. ***Replat of Troyer CR 48 Subdivision***

**Mr. Doriot stepped down from the Plan Commission at this time.*

Mr. Kanney said in 2011 they planned a two lot minor subdivision called ***Troyer's CR 48 Subdivision*** located on CR 48, between CR 11 and CR 13. At that time the developer of the two lots chose to place setbacks on these lots of 200 ft. back from the road for a residence and 300 ft. back from the road for outbuildings, which is in excess of what the County requires. He sold both lots to a single entity and they want their house closer to the front, so they asked if they could change their setback. Mr. Kanney did not think that the Plan Commission would object to allowing the setback to be what the Ordinance requires at 75 ft.

Mr. Kanney noted that another issue that needed to be addressed was the new purchaser did not realize that there were restricted driveways. He clarified that there was a shared driveway. Mr. Kanney mentioned that he received a letter from the Highway Department stating that they are not

too happy with that location because of sighting distances. The Highway Department felt it would be safer to move the driveway; therefore, Mr. Kanney asked that the Plan Commission waive and give approval for a minor change, but it will need to have the Plan Commission signatures as well as the Commissioners' signatures.

A motion was made and seconded (*R.Miller/Warner*) that the Advisory Plan Commission approve this request to change the front yard setback to 75 ft. (from centerline of the right-of-way) and to relocate the driveway, as they determined this to be a minor change. The motion was given unanimous approval.

10. ***Retreat Discussion***

Mr. Godlewski said five Plan Commission and BZA members attended the Planning and Development retreat. Topics of discussion were a new zoning ordinance vs. an amended ordinance, building department plan review, contractor licensing, and the thoroughfare plan. He referenced the memo he had emailed to the Board members last month and reviewed the topics of discussion. Mr. Godlewski stated that Mike Gard is working on the building department plan review and contractor licensing and it is expected that they may be in force by the State in 2014.

Mr. Godlewski felt the Highway Department's thoroughfare plan would be something that could help complement the County's proposed plans and would give the Plan Commission a tool to use when recommending new development sites. The Planning Manager, Brian Mabry, will also work on the thoroughfare plan. Mr. Kolbus clarified that the Highway Department's thoroughfare plan has existing as-builts and the Plan Commission's recommendation, as part of the Comprehensive Plan, is for what should be in the future for major arterials. He agrees this will be a good tool for future development. The Commissioners will make the final decision for the amendment to the Comprehensive Plan.

Mr. Godlewski said there would be a facilitator that would help guide the discussion of the proposed draft for the Ordinance. They want the Ordinance to be user friendly and they will be dealing with some major issues with the agricultural zoning, airports, etc. and will have discussions concerning the pros and cons of the proposed draft. Mr. Godlewski mentioned a good way to begin the process may be to have a Plan Commission subcommittee create a process in order to move forward. He said that Kyle Hannon of the Elkhart City Chamber offered that if the Plan Commission would go into a larger review they would serve as a mutual party as a facilitator to invite participants and offered the Elkhart City Chamber as a resource.

Mr. Kolbus stated there were a lot of concerns with the content of the new draft zoning ordinance, but what came out also at that hearing was the process by which it was adopted. Whether they decide to revise the old zoning ordinance or come up with a new one, the Plan Commission has to sit down and come up with a process to address as many of those concerns as possible. If they could get the minutes from that public hearing there were numerous points raised by the public of specific issues they had with the process. Mr. Kolbus felt that those issues need to be addressed before anything is done.

Mr. Burbrink agreed that there needed to be more public input and that the process is as important as development of the ordinance itself. He asked if they should proceed with forming a committee to create a process, but if the process needed to be altered for some reason, they would all have to agree to alter it.

Mr. Doriot felt the revised Ordinance did not reflect Elkhart County's needs. He thought

they would take out some of the current uses, which are archaic, and put in the high tech uses. Mr. Doriot suggested they also look at whether certain special uses or variances are repeatedly granted and, perhaps, some of them should be an allowed use. Mr. Warner pointed out that the proposed ordinance was far more user friendly. Mr. Doriot agreed and felt they could revise a lot of the ordinance in-house.

The Board members agreed they would need to take one step at a time to cover all of the issues. Doug Miller pointed out that the notes that were made and suggestions given were overlooked and the dialogue that ended up in the ordinance was what was proposed by the consultants. He feels the needs of Elkhart County were overlooked and we ended up with what worked for somewhere else, but did not fit our community. He felt that Farm Bureau had the most valid comment this morning which was any ordinance we come up with has to reflect the needs of Elkhart County.

Mr. Burbrink thought they would need to create a sub-committee or work with the Executive Committee to bring some of their ideas back to this Board. Mr. Sharkey felt Farm Bureau, the school system and the cities should be involved. Mr. Doriot also suggested that 4-H should be involved. Mr. Burbrink suggested the first step should be to develop a process, so everyone understands the 'rules of the game'. Mr. Kolbus stated their jobs would be to identify tasks involved, bring it back to the Plan Commission and tweak it.

Mr. Doriot volunteered to be on the committee, along with Doug Miller, Jeff Burbrink, and Mike Yoder. Mr. Kolbus suggested that Mr. Burbrink would be the one to coordinate the meeting.

11. A motion to adjourn the meeting was made by Mr. Sharkey and seconded by Mr. Warner. With a unanimous vote, the meeting was adjourned at 10:00 a.m.

Respectfully submitted,

Sandra Herrli, Recording Secretary

Jeff Burbrink, Chairman