

## **MINUTES**

### **ELKHART COUNTY PLAN COMMISSION MEETING**

**HELD ON THE 11<sup>TH</sup> DAY OF APRIL 2013 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, Jeff Burbrink, Steve Warner, Blake Doriot, Steve Edwards, Roger Miller, Tom Stump and Frank Lucchese. Doug Miller was absent. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Mark Kanney, Planner; Duane Burrow, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Stump/Edwards*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 14<sup>th</sup> day of March 2013, be approved as submitted and Blake Doriot abstained from voting because he did not attend the meeting, but the motion carried.

3. A motion was made and seconded (*Doriot/Edwards*) that the legal advertisements, having been published on the 30<sup>th</sup> day of March 2013 in the Goshen News and the 31<sup>st</sup> day of March 2013 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/Lucchese*) 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 a zone map change from A-1 to M-1, for **Kermit L. Troyer** represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of SR 13, 1,350 ft. North of CR 20 in Middlebury Township, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #SR 13-130304-1*.

In addition, the application for Primary approval of a two lot major subdivision to be known as **TROYER AND NUSBAUM SUBDIVISION**, for Kermit L. Troyer (Owner Lot 1/Developer) and Valerie Nusbaum (Owner Lot 2) represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of SR 13, 850 ft. North of CR 20 in Middlebury Township, zoned A-1, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #58782 SR 13-130304-1*.

Greg Schock, Brads-Ko Engineering & Surveying, 1009 S. 9<sup>th</sup> Street, Goshen, represented Kermit Troyer in the rezoning, and Kermit Troyer and Valerie Nusbaum in the preliminary plat of the two lot major subdivision. Mr. Troyer was out of town today, but he owns the 9.1 acres and the

surrounding land, purchased with the intention to rezone. He is also the developer of KLT Industrial Park to the East, and Troyer Industrial Park to the East, which is about a 66 ½ acre industrial complex. Mr. Troyer purchased this with the intention of rezoning to M-1 and currently has a buyer that is interested in constructing a commercial building on this property. To the North and East it is zoned M-1, and to the West B-3 DPUD which is the Jayco property. With the ongoing change in the area, this portion is changing to an M-1 type use and he asked that the Plan Commission concur with the Staff Report and approve the rezoning.

Mr. Shock is also representing Valerie Nusbaum who is the owner of the A-1 parcel to the South. She also owns and lives on the parcel South of that parcel. Currently, this will continue to be residential and is being rented to a family member at this time. They will be using the current access drive. Lot 1 which was up for rezoning, has in place a commercial type 2 drive permit from the Indiana Department of Transportation at this time. Mr. Shock is working with the Town of Middlebury for the connection to sewer and water, and for the annexation of this property

Mr. Shock asked that the Plan Commission approve the request for a two lot major subdivision.

There were no remonstrators present.

**Motion: Moved by** Blake Doriot, **Seconded by** Frank Lucchese that the public hearing be closed and the motion was carried with a unanimous vote.

Mr. Doriot noted that the request was referred to as a minor subdivision in the presentation, but he sees major subdivision in the documents and Mr. Kanney clarified this is a major subdivision.

The Board examined said request and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, 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-1 be approved in accordance with the Staff Analysis and as presented by the petitioner.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

**Yes:** Tony Campanello, Steven Edwards, Roger Miller, Steve Warner, Jeff Burbrink, Blake Doriot, Tom Stump, and Frank Lucchese.

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that the request for Primary approval of a two lot major subdivision be approved by the Advisory Plan Commission in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

**Yes:** Tony Campanello, Steven Edwards, Roger Miller, Steve Warner, Jeff Burbrink, Blake Doriot, Tom Stump, and Frank Lucchese.

6. The application for a zone map change from General Planned Unit Development-M-1 to a Detailed Planned Unit Development-M-1 to be known as **BRISTOL PARK FOR INDUSTRY, PHASE 2A, DPUD M-1**, for Wagner Land Development Company, Inc. (Owner) and J. A. Wagner Construction (Developer) represented by Marbach, Brady & Weaver, Inc., on property located on the South side of Commerce Drive, 3,600 ft. East of SR 15 in Washington Township was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #0COMMERCE DRIVE-130304-1*.

Mr. Burrow amended the Item #4 requirement of the Staff Report. He stated that the

original did show an 8 foot building façade made out of stone, brick, reinforced concrete, glass and a combination of materials. Mr. Burrow reiterated that is what was represented originally within the GPUD. The petitioner has not specified a request for the deviation from the GPUD, but the Staff would indicate the following fact: that the petitioner did demonstrate through the site plan/support drawing that the aesthetics design was removed from the request as shown, but it was not noted on the site plan as a deviation from the requirements. Therefore, they do have a graphically shown deviation, but it did not show up on the site plan/support drawing. Essentially, Item #4 would be up to the Plan Commission to decide whether or not they felt it was necessary to require a façade requirement. Mr. Burrow indicated that the Staff was not really intent on having some aesthetics requirement within the interior of this industrial park. Subsequently, Staff does not have a problem with not imposing that requirement. He thought it was just more of an oversight that it was not noted on the site plan/support drawing. Mr. Burrow said they would like to see this request sent with a favorable recommendation with the restrictions of the uses and not necessarily subject to any aesthetic requirements as originally proposed. Roger Miller clarified that they were not saying what the uses should be; they are saying what they cannot be. Mr. Burrow agreed and said that they wanted to prohibit the uses listed in the GPUD narrative.

Chris Marbach, Marbach, Brady & Weaver, Inc., 3220 Southview Drive, Elkhart, represented Wagner Land Development as the developer, J. A. Wagner as the design builder and Alliance Aluminum as the potential buyer and owner of this new project. Mr. Marbach submitted pictures of some of the properties in the Bristol Park development. *[attached to file as Petitioner Exhibit #1]*.

Mr. Marbach explained that the existing Commerce Drive will be extended East which will, ultimately, terminate a temporary cul-de-sac. The Bristol sanitary sewer and water will also be extended along that road to service this lot and any future lots in the development. He stated that the project is a five acre parcel. Alliance Aluminum is to construct a 57,600 sq. ft. building on this property. They bring in aluminum, repackage it into different sizes and quantities and ship it back out to their customers. He believed it is a distribution center for them. The new building will be connected to sewer and water along Bristol Street. Mr. Marbach said they would also have three new retention areas within the site that will contain the stormwater runoff and keep it onsite within the project.

Mr. Marbach indicated that they agree with all of the Staff's comments regarding the Staff recommendations, except for item #4. He explained how Item #4 first evolved. When they first applied for the application for the 144 acres that sits in this area, they submitted a DPUD application. In that DPUD application they added a lot of restrictions such as the uses, 8 ft. masonry walls, etc. During the course of that review process the Planning Commission just gave them a GPUD, but not the full DPUD they requested. Therefore, those standards were still on the application and they were not sure which ones were going to be included in the GPUD requirements vs. just in the DPUD requirements.

Mr. Marbach is requesting that Item #4 be changed and not be required. Based on the economy, the people that want to build industrial buildings these days do not want to put the money on the outside of the building, but they want to put the money on the inside of the building in order to get their production and their facilities going the way they want. He requested that the Plan Commission recommend approval of this zone map change to the Bristol Town Board without the requirement for Item #4.

Roger Miller recalled, from the original approval of this entire area, he thought that they were going to have the entrance for this property coming out to the cul-de-sac, with the possible

elimination of the road to the North exiting by the toll road bridge. Mr. Marbach said that property owner purchased a sliver of property for a potential road to make that happen. The original GPUD was approved to come out to CR 29.

There were no remonstrators present.

**Motion: Moved by Roger Miller, Seconded by Tony Campanello** 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:

**Motion: Action: Approve, Moved by Roger Miller, Seconded by Tony Campanello** that the Advisory Plan Commission recommend to the Bristol Town Board that this request for a zone map change from General Planned Unit Development-M-1 to a Detailed Planned Unit Development-M-1 be approved in accordance with the Staff Analysis and as presented by the petitioner with the following items to become part of the DPUD ordinance:

1. That the following uses be prohibited, as listed in the GPUD narrative:
  - a. Creameries and dairies
  - b. Silver plating and repair shop
  - c. Smoking and processing of meats
  - d. Trailer sales or rental of house trailers or mobile homes on an open lot or within a building
  - e. Acid manufacture, other than those acids specified as conditional uses in the "M2C" District
  - f. Batteries, Manufacture and rebuilding
  - g. Canning and preserving
  - h. Chick hatcheries
  - i. Cigarettes and cigars
  - j. Livestock sale or auction
  - k. Metal polishing and plating
  - l. Storage of flammable liquids, fats or oil in tanks, each of no more than fifty thousand (50,000) gallons capacity, and only after the location and protective measures have been approved by all responsible County and State officials.
2. No outside storage of raw materials; unless shown on the site plan support drawing and attractively screened and landscaped so as not to be seen from a public roadway.
3. That prior to Development Plan (PUD Plat) adoption, a recorded copy of the "Proposed Protective Covenants" from the GPUD application be submitted. And that the covenants are recorded for all lands within the proposed GPUD.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

**Yes:** Tony Campanello, Steven Edwards, Roger Miller, Steve Warner, Jeff Burbrink, Blake Doriot, Tom Stump, and Frank Lucchese.

7. The application for Primary approval of a six lot major subdivision to be known as **SHERCK ESTATES**, for R & B Sherck Land, Inc. represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of CR 31, 1,758 ft. South of CR 10 in Washington Township, zoned A-1, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #0CR 31-130201-2*. Sherck Estates was tabled at last month's meeting. The Tech Committee reported the following ordinance deficiencies: the Planning Department points out that lots 3 and 4

will require a 3 to 1 depth to width ratio variances from the Board of Zoning Appeals, need to see a general location map, suggested covenants and easements be created to protect the wetlands and any development around them, suggested covenants to ensure maintenance of common lots 3, 4, and 5 driveway. The MS4 Department indicated since an acre or more of land will be disturbed during the project a SWPPP will need to be approved prior to the Secondary.

Mr. Doriot thought this Board had the ability to grant 3 to 1 variances. Mr. Kanney agreed in the past he may be right, but there was a question as to whether the powers of the Board of Zoning Appeals could be set aside in the Zoning Ordinance. Mr. Kolbus asked if the 3 to 1 variance definition is in the Subdivision Ordinance or the Zoning Ordinance. Mr. Kanney told him it was in the zoning ordinance. Mr. Kolbus informed them that in July 1, 2011 there was a change that said the Plan Commission can only modify those that are in the Subdivision Ordinance, not the standards in the Zoning Ordinance.

Roger Miller explained that after Mr. Shock from Brads-Ko and R & B give their presentation, that will be the time that anyone can speak for or against the petition. He suggested that their group appoint a representative to speak for them. Once that is done, if they have something to add to what has already been said they can feel free to speak, but if the information is repetitive or the same thing that was already presented they will not be able to follow through with their comment again. After that the public hearing will be closed. Once the public hearing is closed comments from the audience will no longer be accepted. If someone has something vital that you want to say at the time, it will not be heard because the public hearing is closed. He then asked that the representatives start the process.

Gregory Shock with Brads-Ko Engineering & Surveying, 1009 S. 9<sup>th</sup> St., Goshen, is here to represent Dr. Sherck of R & B Sherck Land Inc. With the development of the 66 plus acre tract located in section 36, Washington Township, they are proposing to divide this into six individual lots. Dr. Sherck has worked closely with Adlai Schrock of Schrock Homes, local builder and land developer to design these six lots. Due to a scheduling conflict Mr. Schrock could not be here today.

Mr. Shock stated that the intention of this subdivision is to have large estate type lots using the topography, wetlands, and the wooded areas as amenities for these lots. The individual sites were chosen in the field with a soil scientist to best choose the location of the six lots. He said the lots were designed around the building sites. The smallest lot is 4.2 acres and the largest lot is 19.2 acres and the average lot size is 10.8 acres. This property is zoned A-1 as is all of the adjoining properties. The use of large residential lots is consistent with the surrounding uses of the property. Soil borings were obtained on each site and will adequately support individual septic systems and wells for each lot. There is one common driveway for lots 3, 4, and 5.

Mr. Shock said they are working with legal council to put together an agreement for cross access, cross maintenance and also to allow the continued flow of surface water from all lots to the two wetland areas. During the design of this subdivision the proximity of the wetland areas to CR 31, they were able to get the required 100 ft. of frontage, but they could not get the 250 ft. of frontage required to avoid the 3 to 1 ratio. He said they currently have a petition in front of the BZA that will be handled on the 18<sup>th</sup> requesting the 3 to 1 width to depth ratio. This subdivision is technically compliant with County Highway, Health, and Surveyor and has a recommendation from Planning for approval. He asked that the Plan Commission agree with Staff and grant primary approval of this six lot subdivision.

Mr. Doriot read in the minutes from last month and one neighbor had concerns about what type of septic. He asked what the soils are at that location. Mr. Shock indicated that the soils are fairly heavy and half of them can support 300 sq. ft. for bedroom conventional; the other half they go with 500 sq. ft. or mound or pressure dosage system. He said they have the soil borings and it appears that will support those.

Roger Miller asked if there was anyone to speak to this issue.

There were no remonstrators present.

**Motion: Moved by** Blake Doriot, **Seconded by** Frank Lucchese, 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:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Steve Warner, that the Advisory Plan Commission approve this request for Primary approval of a six lot major subdivision (amended February 21, 2013 primary plan) in accordance with the Staff Analysis and as presented.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

**Yes:** Tony Campanello, Steven Edwards, Roger Miller, Steve Warner, Jeff Burbrink, Blake Doriot, Tom Stump, and Frank Lucchese.

8. The application for a zoning map change from A-1 and R-1 to M-1, for ***R & R Property Leasing, Inc.*** represented by Anchor Construction, LLC, on property located on the West side of CR 15, 1,400 feet South of CR 6, also located 370 feet East of the end of Cooper Drive in Osolo Township was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #000CR 15-130204-1*.

Mr. Mabry pointed out the area of the rezoning request displayed on the GIS map *[attached to file as Staff Exhibit #1]*. He submitted a few more letters received this week including six positive letters, three negative letters, and a negative petition signed by approximately 60 people *[attached to file as Staff Exhibit #1]*. Mr. Kolbus stated, for the record, that the letters received prior to this week have all been distributed to the Plan Commission Board members along with their packet materials. Mr. Mabry confirmed his statement was true.

Mr. Mabry explained the reason for the amendment to Commitment #5 was to allow for additional tree plantings along the east property line, because it would assist in making the adjacent property more appealing to potential developers and provide greater distance for any further expansion in that direction for industrial use. Mr. Mabry referenced the Staff recommendation that the Plan Commission also impose conditions. He stated that conditions are different from commitments, because they are more procedural and do not relate to what is actually being built on the ground. Roger Miller asked, for clarification, if the Plan Commission was recommending approval of the petition, pending the three conditions as recommended in the Staff Report are met. Mr. Mabry confirmed that approval would be recommended subject to the commitments and the conditions indicated in the Staff Report.

Mr. Doriot asked if the Plan Commission had approximate dates when the developments were approved. Mr. Mabry indicated it was a plain PUD at one point and in the late 1990's it changed.

Bob Weaver, Anchor Construction, LLC, 4085 Meghan Beeler Court, South Bend, is the engineer and land surveyor representing MorRyde. He submitted a detailed report for each of the Board members *[attached to file as Petitioner Exhibit #1]*. Mr. Weaver said that Rodney and Bob Moore, the

owners of MorRyde, were also in attendance to answer any questions, if needed. Jeff Shaffer from his office was also available for any questions that needed to be addressed. He said three gentlemen from Praxair, the company that provides materials for MorRyde's welding at the facility, attended this meeting because materials used for the welding process had been discussed at some of the meetings. There are many concerns pertaining to this petition, so Mr. Weaver provided a 50-page report to the Staff in an attempt to address the issues and to mitigate any concerns that anyone had.

Mr. Weaver said MorRyde owns 22 acres as indicated on the original application. The current petition pertains to 11.86 acres. MorRyde is approximately 780 ft. from the property line to the East where the residences are located. He pointed out where the large mature tree growth and natural buffers were along the property. The closest corner to the school is about 340 ft. and with a 50 ft. setback, but if they built a building immediately in the corner they would be almost 400 ft. from the building to the school. Mr. Weaver said the petition location actually adjoins with one residence. The residence is to the South which is approximately 300 ft. from the property line. He indicated that Hunter's Run Subdivision to the South would be over 600 ft. to the property line.

Mr. Weaver went on to review with the Board members and the people that attended the meeting the remainder of the 50-page report. He stated that MorRyde has a total of 450 employees in all three of their Elkhart area locations at this time. In January the main headquarters location was rezoned from R-2 to M-2 and 90 notices were sent out to property owners within 300 ft. Three letters were returned in support of the rezoning, there were no remonstrators at the Plan Commission or City Council meeting, and the rezoning was approved unanimously. Ron Troyer, the City Council President, indicated that MorRyde has a history of operating in dense residential areas.

With this petition there are four adjacent property owners that are impacted. Mr. Weaver pointed out to the South is K2 Holdings, there are two private residences within 300 ft. to the South also, to the Northwest is Bimbo Bakery, and the North includes Eastwood School. He mentioned MorRyde concurs with the Staff recommendations and their amendments to their commitments and he noted that the screening on the East side is property that MorRyde owns also, but they will screen it and plant trees as recommended by Staff. He said they have no desire to access CR 15 with this parcel or with the original petition either. He reiterated there are two residential properties to the South that are directly impacted by their proposal. Mr. Weaver said that MorRyde tried to mitigate or eliminate the concerns that the residents might have related to their development.

Mr. Weaver briefly spoke about the proposed commitments and held a meeting with the adjoining property owners, including the school, to discuss potential issues and concerns. After meeting with the school board, the PTA, and the management of the school they came up with key points of concern such as; visibility, lighting, dust, stormwater quality, noise, and traffic. He said they attempted to eliminate all of those concerns as much as they possibly could:

Visibility – MorRyde proposed screening to the South.

Lighting – The commitments indicate there should be no light taller than 20 feet. Mr. Weaver said they would use dark sky fixtures so the light points to the ground, not up in the air; therefore, there is not as much of an illumination effect.

Dust – When Remington Park was built Eastwood had a concern about dust, so they proposed surfaces that would not create dust, such as, no gravel or dirt roads. However, they may use recycled asphalt or recycled concrete.

Noise and Traffic – There will be a berm to mitigate the noise. MorRyde really does not have any outside manufacturing which would create noise. A noise study was included as part of

the application provided to the Plan Commission, which was done according to HUD standards.

Roger Miller asked for the hours of operation. Mr. Weaver stated that the hours of operation currently at the MorRyde facility is day time operation, but it does operate with crews 24 hours a day.

Mr. Weaver added that they checked both with the City of Elkhart and Elkhart County, code enforcement, and zoning, and MorRyde had never had a complaint filed nor a zoning issue. However, there was a sign issue, because three days ago ABC Signs put up a 'Help Wanted' sign for MorRyde on Grant Street, but this issue was immediately taken care of.

Roger Miller asked about a fire code, gas being used, or explosions, and whether there were any issues with that in the past. Mr. Weaver said there was not. He said that is why he asked Praxair to attend the meeting, because they do use propane.

Mr. Weaver mentioned that outside his house, 20 feet away he had a 500 gallon propane tank, but a 1,000 gallon propane tank would be allowed. He explained that the largest propane tank placed on the MorRyde property would be a 1,000 gallon tank with double walls. He added that according to the National Fire Protection Association, everything has been checked and done to code. Mr. Weaver stated that Praxair has a safety record five times better than the national average for gas providers. He considers Praxair to be a very safe company.

There are other companies that do welding and manufacturing in Elkhart County that utilize tanks for welding. MorRyde does not make foam, or fill aerosol cans. The propane is simply to refill cylinders. Currently, there is not a propane tank at this facility, but there may be in the future if they are allowed to expand.

Mr. Weaver said in lieu of negotiating and to enhance buffering, they came up with an idea for an irrigated berm, tree plantings that would be eight feet tall, and they also looked at putting up a six foot vinyl privacy fence. The fence would not be chainlink, but would have vinyl slats in brown or earthtone. They proposed the tree plantings to be in a sawtooth pattern. The sawtooth pattern collects more sound and is more attractive to look at, so they propose that buffering to the South. Mr. Weaver said with the residential neighbor along the North they have existing trees that would remain, and would still have the privacy fence placed, but it would be within the existing trees. With the current Staff amended recommendation, that fence would also go along the East property line with tree plantings. Immediately to the North at Eastwood School, the area that is open is sloped down from the parking lot and there is storm pipe coming out which appears to be the stormwater retention area for the school, so that will be fenced and there will be trees along with the soccer field in that area.

Mr. Campanello asked if there was any type of punch press operation on the MorRyde site, or any type of presses that would reverberate. Mr. Weaver replied that there was not. He clarified that they bend metal, but do not punch press. There are laser cutters, metal bending, and metal fabricating to facilitate the work on frames. MorRyde has grown in this economy and these facilities will actually produce parts and fabricate material that will be utilized in the new building adjacent to it. Mr. Campanello asked if MorRyde's usage was about the same type as located at the Moyer or Sterling Avenue area. Mr. Weaver said it is basically the same with the laser cutters, welding, metal fabrication, and work on frames. He said MorRyde does some specialty metal fabrication also.

Mr. Lucchese asked Mr. Weaver to show them the placement of the proposed building on the GIS map. Mr. Weaver indicated where the building would be located with the adjacent parking.



He said if they are allowed to proceed with this building at this location which currently has 155 employees, there would be 40 to 60 new employees hired.

Mr. Campanello asked him what he would do with the rest of the property behind the new proposed building. Mr. Weaver said there are no plans at this time, but there would be some type of retention/detention area placed, there may be parking for employee vehicles, or there may be some additional chassis parking.

Mr. Weaver thought one of the issues of concern was the CR 15 access. Looking at an impact to the neighborhood, if they asked for an exit onto CR 15, there would be a greater concern for the potential of an increase in traffic. MorRyde is the only developer of this property that would say they were not going to exit onto CR 15. However, MorRyde committed to maintain the mature pine trees and all access to the property will come through MorRyde's existing facility. Mr. Weaver mentioned that there was an issue brought up about an emergency entrance. Therefore, the Fire Department may like a crash gate to enter at CR 15 if there was a fire from another direction. He said, however, MorRyde could leave the gate out if people do not want it there and he reiterated that the commitments that are made will be enforceable by Staff.

Mr. Weaver went on to discuss the tax benefits. He informed them that the development would come to \$3,000,000 and would provide new jobs which would have a significant impact on MorRyde's ability to compete. He pointed out that Elkhart County's employment level has not been this low since 1985. He said we have lost 25 years of employment since 2006. Our unemployment rate is currently 10.3% in the County. If this goes through not only would there be 40 to 60 jobs created at this facility, but there would be another 40 jobs created at the other two facilities. Mr. Weaver also informed them that MorRyde was not asking for any tax abatements and would be using city sewer.

Mr. Campanello questioned, logistically, if MorRyde was to move this operation within a mile, what would it cost them if they built in an area that already has utilities. Mr. Weaver used the analogy that a person could build their garage anywhere, but would they want to build it four blocks away from their house. He said the two buildings at this site would provide pieces and parts that will be utilized in the third building on site, so they want to be close to existing buildings. It is important for MorRyde to be able to expand at the proposed property, but it would be costly to move to another location.

Roger Miller asked about stormwater retention. Mr. Weaver said that is part of the development plan that would be submitted to Staff, assuming that they get the rezoning. He said they have plenty of room for that. Soil borings were done in the wooded area and the water table appears to be at six to seven feet. They would comply with all Stormwater Pollution Prevention Plans and they concur with Staff's recommendations as far as submitting a detailed plan to make sure that MorRyde complies with requirements, and they would also record the commitments. Mr. Weaver added that before they are issued a Certificate of Occupancy, Staff would come out to certify that things were done the way they said it would be done.

Mr. Campanello commented that he found it to be annoying if a company used an exterior paging system. Mr. Weaver said they would not use exterior speakers and Staff could add that as a commitment. Mr. Campanello asked about all of the children from Eastside being out on the playground and how that noise level would compare to MorRyde's noise level. Mr. Weaver explained that MorRyde does not have work done outside the building and there are no loud ratchets or air powered tools that would make noise outside.

Mr. Weaver mentioned that one of the reasons they changed the acreage to 11.66 acres was because the school came to MorRyde with a potential proposal to swap land. The school proposed to swap the 10 acres behind Eastwood School. MorRyde committed to give the school \$80,000, to build a new soccer field, and committed to fix up the horse barn which includes water and electricity, because they may want to use it for an outdoor class or something. Since the playground area lies on the North side of the school, there would be quite a bit of distance for MorRyde to impact the playground area. MorRyde is still open to the land swap, but they do not know what will happen with the 10 acres at this time.

Roger Miller clarified that what they are doing today is rezoning. Mr. Weaver stated that it is a rezoning with commitments. The Staff informed him that anything that can be done in B-3 or M-1 can be done in B-1 and B-2 zones. Therefore, MorRyde got rid of all B-1 and B-2 uses and high traffic uses. He said they left some B-3 and M-1 uses. He reiterated they are asking for rezoning with commitments enforceable by the Staff. Roger Miller informed him that the next step for MorRyde is to bring in something with drawings that indicates where the buildings will go, where the retention pond will be, and where the parking lot will be, etc. Mr. Weaver said that will go to Staff as part of compliance with what has been approved. He added as part of the commitments they agreed to they will not get a Certificate of Occupancy for the building until all of the commitments are enacted and until an as-built is provided. Roger Miller asked when the existing two buildings were constructed and Mr. Weaver told him it was in 2006.

Mr. Edwards asked about the subject area outlined, other than the natural buffers or trees they would be leaving, whether they were going to clear that area. Mr. Weaver said they did not intend to do that, but talked about landscape islands in parking areas, doing a tree survey to see if big trees could be saved and utilized. He explained that the trees would not be cut until it is necessary. They will only do what is necessary for development and look at mitigating, as much as possible, the balance of the property. The existing trees will stay on the North side, the East side will have new trees planted, and they have no intention to build close to the property line. There is a 50 ft. setback line and a 30 ft. berm setback line, so there is a significant area that remains.

Roger Miller announced that the meeting was now open for positive public input first, and after they have spoken the people that are against this proposal will speak. He explained after input has been given the public hearing will be closed and the public will be asked not to speak after that time. He asked that their comments be short and to be respectful while the people are talking. Roger Miller reiterated that this meeting is about rezoning this property and a recommendation will be given to the County Commissioners from the Plan Commission and the Commissioners will then act on it. Roger Miller explained that if the petition is approved, and they decide to build on this property, they will need to come back with plans including drawings of the buildings, the location of the buildings, and then they will have to go through this process again.

Mr. Doriot clarified that the site plan does not come back to this Board, but the site plan goes to the Staff for review for compliance with all of the commitments. Mr. Mabry pointed out that this is a DPUD and needs to be modified to take into account the access that will be taking place.

Megan Hiland, 1836 Woodland Drive, Elkhart, has a daughter attending Eastwood Elementary School and she has been an active member of the PTA. Ms. Hiland supports the rezoning for MorRyde. She was aware that some parents have concerns, but she has worked with MorRyde for 12 years. She works for a RV manufacturer and MorRyde is one of their primary suppliers. Ms. Hiland has been in all three facilities many times and they are very clean and safe

facilities. She felt confident walking in the facility with her crutches without falling due to a spill or debris. The plant at this location is not noisy nor did it emit any kind of pollution. She lives within a mile of this plant and has actually been in the facilities, worked with the company and owners, and has found that MorRyde is a good, honest local company. From the point of view as far as MorRyde building somewhere else or using another facility, she is aware that it is not beneficial to move a manufacturing use into another building without rebuilding it to suit their manufacturing processes. Ms. Hiland said MorRyde is supportive of her business and the jobs they would be creating would benefit her company and other companies they work with. The RV industry is recovering from the recession and she felt the rezoning would assist with economic recovery in this area and it would be helpful to all of the other manufacturers as well.

Jessica Peterman, 22895 Foxfire Drive, Elkhart, is a resident in the area and an employee of MorRyde. She wanted to give her support. As a resident she said she would not want any other company besides MorRyde to build there. She felt they were responsible with all of their properties and they have made improvements in the communities they are a part of. She does not have any safety concerns about the company and is confident it is a good move.

Bruce Kurtz, the Vice President of Support Services for Thor Motor Coach, said his company is one of MorRyde's customers. He explained that Thor has been part of the community for well over 20 years. Initially, Thor Motor Coach was a merging of Four Winds International and Damon Motor Coach. Thor currently employs over 1,000 workers in the Elkhart area and he is in attendance to speak on behalf of and give support for MorRyde's request for the zoning change. MorRyde has been a long standing supplier of Thor Motor Coach and they have been doing business with them since the early 1990's. MorRyde has always been a very reputable and honorable family-owned company. All of their dealings with Thor have been totally upfront, and whenever they made a commitment to do something you can bank on the fact that they will do it. They are an honest company and that is the way they do business. Sometimes they have gone beyond what was expected of them, but that is the type of company they are. Thor Motor Coach has experienced significant growth this year and they have had many jobs added to their work force as a result of the recovery that they have been experiencing since the 2009 downturn. However, in order to do that they need to rely on all of their suppliers and they rely heavily on their suppliers to support them and give them time, materials, and services which has been their biggest challenge this year. He said that has been a problem this year because they need the suppliers to react in a timely basis along with their increase in business. MorRyde is one of Thor's larger suppliers and without their support they would not be able continue with the growth that they are experiencing right now. Thor has added over 200 workers so far this calendar year and they anticipate adding additional employees, but in order to do that they need the suppliers to support them as well. It is their understanding that MorRyde needs the zoning request approved so that they can expand their Cooper location in order to keep up with customer's demands. Therefore, Thor Motor Coach is supporting MorRyde's request and is asking the Elkhart County Plan Commission to approve their request for the zoning change.

Angelica Chaveria, 511 Middlebury, Elkhart, has worked for MorRyde for six years at the main fabrication facility. She said they have the largest gas tanks at that facility. Her children also go to Eastwood School. Her children come and eat lunch with her on the picnic tables outside from time to time. Her children have seen the tanks and they are not afraid of anything that is going on at any of the facilities, but they understand there is manufacturing going on and are not aware of excessive noise. She does not see any problem with the rezoning and feels it will help the economy

grow and requests approval for the rezoning.

Roger Miller asked for anyone else to speak in favor of the rezoning and there was no response, so he asked for the spokesperson to speak in opposition of the rezoning at this time.

Tanzie Nielsen, 53815 Spring Mill Drive, Elkhart, represents a large group of people that will address several different areas of their opposition, so they will try not to repeat the same thing. She is also the Eastwood Elementary School PTA president.

Ms. Nielsen's 10 year old and 7 year old children attend Eastwood School. She said at the beginning of Mr. Weaver's presentation he asked how many people were here representing the support of this rezoning, so she asked how many of those people were MorRyde employees and how many of them live in this community. Roger Miller requested that they do not take votes.

Ms. Nielsen stated that if you asked her today if she was proud of where she lives she would reply that she was not sure. She is waiting to see what will happen next and in all honesty, she is angry. She is angry that she has to spend so much of her time fighting to maintain a boundary between industry and her community. She felt there should be stronger policies in place that prevent any industry, not just MorRyde, from building in a residential area. She felt this situation is about responsible industrial rezoning. She said at some point the land in question was zoned residential and agricultural for a reason. Ms. Nielsen thought it is the Plan Commission's responsibility to understand what that reason is, and given the plentiful availability of land zoned for commercial and industrial use, she believes it is the Plan Commission's responsibility to enforce the current zoning. She said, "Let me be clear there is something I believe in and that is the need to maintain a healthy and appropriate boundary between industry and community." She stated that she has no regrets about spending so much of her time fighting for this, but she did not feel she should have to.

Ms. Nielsen informed the Plan Commission that recently, the Elkhart Community School Board spoke out against industrial rezoning next to any of the Elkhart Community Schools. When that happened, she said she was proud, felt a great deal of respect for them, and admired their position and their ability to speak out. Ms. Nielsen believed their elected Board members were strong enough and brave enough to take a public stand on behalf of the children who attend Elkhart Community Schools. Ms. Nielsen said she was asking the Plan Commission to do the same for the citizens of Elkhart County. She felt it is the Plan Commission's job to assist in the responsible development of their land and to take into consideration what will be best for all citizens involved; not just industry. Ms. Nielsen stated that she recognizes the importance of economic growth and applauds MorRyde for wanting to expand, grow, and benefit this community. However, she is concerned that the Plan Commission might feel an obligation to let them expand wherever they want to support that growth.

Ms. Nielsen is concerned that the Plan Commission is fearful that if they deny this rezoning it will result in the loss of jobs to Elkhart County, but she is challenging the Commission to recognize that irresponsible industrial zoning may, in fact, cause Elkhart to become less desirable resulting in a long term negative economic impact. She asked that they look deeper than what is being presented on the surface and assist in the process of responsible industrial growth while also recognizing that we need to build confidence and pride in Elkhart County. People need to know that their personal investments are protected from irresponsible industrial rezoning. The citizens of Elkhart need to know that where they choose to settle will be protected from encroaching industry. She thought if you guide any industry to expand at any of the available properly zoned lands the proposed benefits can and will be achieved. When you govern Elkhart County in a way that

promotes economic growth while also respecting the investments of our citizens you can achieve balance. She felt you can protect the community, protect the school, and provide the opportunity for industry to expand and grow in a mindful way. She felt this balance is possible. If that balance is achieved she would be proud of where she lives.

Ms. Nielsen then wanted to make a couple of rebuttal points. She noted several things that Mr. Weaver brought up. She thought he pointed out two or three adjacent property owners and she commented that just because people are not adjacent to the rezoning does not mean that they are not going to be affected. She felt it is important to remember that.

Ms. Nielsen also commented that this is not just about MorRyde and again she applauds MorRyde's ability to grow, but the homeowners are just asking them to do it in a different location. Mr. Weaver also said that if they build a mile down the road it will be costly. She said she understood that, but it could also create more jobs.

She mentioned there has been a lot of talk about mitigations and none of the mitigations prevent the fact that the central issue here is irresponsible rezoning. She believed that mitigations would not change that. She said the proposed property tax revenue that MorRyde presented in their petition to the Elkhart Community Schools is equivalent to the loss of six students from the Elkhart Community School. She explained if six children pulled out of the Elkhart Community School system that would equal what they are proposing in property tax revenue. She felt it is important to note the expense of going down the road a mile should not be the public's expense. She said it should be MorRyde's expense to responsibly expand into areas that are appropriate for their use.

Ms. Nielsen also pointed out that they mentioned 300 ft. setbacks and using berms, but Elkhart Community School Board has spoken and they do not want industrial rezoning in any land adjacent to any of their Elkhart Community Schools. She thought they spoke loud and clear, because she was listening and hoped the Plan Commission was too. She then thanked the Plan Commission.

Mr. Burbrink noted in the beginning of her presentation she mentioned something about a healthy environment and asked her what she saw as being unhealthy. Ms. Nielsen replied that they would not put a school in the middle of an industrial park, so why would you put an industrial complex in the middle of a community between a school and a neighborhood. She said when looking on the map, it looked to her as though Eastwood Elementary was in the way of industrial expansion, but Eastwood is not going to move. She said it is there and it has been there and where they are proposing to rezone is a straight shot across the school and above the neighborhood. However, she reiterated, Eastwood is not moving. She asked what the next step is and if they set a precedent of allowing this rezoning what comes next and what area is safe. Why is an industrial complex in a community between the school and residential properties?

Roger Miller stated that Ms. Nielsen said she is the president of the PTA, so he wondered if the PTA was opposed to the rezoning. Ms. Nielsen said the PTA voted and she has been empowered to speak on behalf of the Eastwood Elementary PTA and they are against this rezoning. Roger Miller noted it must not have been unanimous, because earlier in the meeting someone from the Eastwood PTA spoke in favor of the rezoning. Ms. Nielsen stated that they do not have a large attendance at the PTA meetings, so the minutes reflected the vote as 14-0. Roger Miller thanked her for her input. Ms. Nielsen submitted a copy of her presentation *[attached to file as Remonstrator Exhibit #1]*.

Matthew Smith, 53411 CR 15, Elkhart, is immediately South of the property being discussed. Paul Thrash, 22805 Fair Oaks Court, Elkhart, is the treasurer of Hunter's Run Subdivision and there are 132 homeowners in Hunter's Run.

Mr. Thrash was going to give the Plan Commission a ground view of his subdivision. He explained that they could see a presentation given with an aerial view, but it is not what he actually sees day to day. One of the things that concerns the residents is the height of the berms, how it will look, and how they will impact Hunters Run and the surrounding areas. The residents take a lot of pride in their community and, aesthetically, they invest a lot in their properties. Mr. Thrash displayed slides viewing Hunter's Run Subdivision throughout different seasons of the year. Hunter's Run subdivision includes a park, and there was a view from the school with a nature trail for the students. Mr. Campanello asked about the nature trail and Mr. Thrash explained it is part of school property. Mr. Thrash displayed slides viewed from a variety of streets in Hunter's Run Subdivision along with slides showing the manufacturing property. He questioned how they would be able to hide 30 foot buildings, because they would be difficult to screen. Mr. Thrash noted that there is barbed wire in all of their fencing and one of the slides show their tanks, but he was not sure of the height of the tanks. He displayed a slide of the woods that would be taken down to expand. Mr. Smith stated that they would remove the woods to construct the new building.

Mr. Thrash displayed a view of the manufacturing property behind Eastwood and looking South with the fencing. Mr. Campanello noticed the manufacturing property is quite a distance from the back of Eastwood's property. Mr. Burbrink requested that they point the Eastwood property out on the map. Mr. Campanello noted it was about 1,000 feet. Mr. Thrash also included some pictures of other berms in the County with some of the buildings. Roger Miller asked how high the berms were. Mr. Thrash told him around six feet and pointed out the buildings could still be seen. Mr. Smith thought there was a stark contrast between the industrial properties that they want to bring into their neighborhood and the way the neighborhood is now, so they want to show how it would be a significant change in their neighborhood.

Mr. Campanello asked, pertinent to the height of the building, what would be the height of the MorRyde post building be and he was told 28 feet. Mr. Doriot clarified they were also proposing a six foot vinyl solid fence along with the trees. Mr. Campanello commented that the height of the building was within the common height for manufacturing buildings.

Mr. Thrash felt one of the other issues was the maintenance of the berms over time, because he felt they become difficult to maintain.

Mr. Thrash pointed out that it is highly probable that some of these manufacturing properties will be resold, so how would they maintain the berms. He showed a slide of the bakery on Cooper Drive and the drainage ditch next to their Cooper Drive facility. He just wanted to point out that this property is available, so it made a lot of sense to him that they could use this current building. His last slide was of the retention pond for Eastwood. The Board thanked them for their information.

Steve Hollenberg, 53467 Brittany Trail, Elkhart, pointed out his property and the land that currently is used for manufacturing that is available and questioned why other manufacturing land could not be utilized for MorRyde.

Mr. Hollenberg built his home on Brittany Trail 17 years ago when the land to the West of them was all farmland. He mentioned that the Land Use Plan that was adopted at that time assured him that property would never be industrial, because it would stop at CR 113. However, his neighbors there have an industrial park now. He thought they could appreciate how much buffer there is now, because of the nice woods and so far his quality of life has been good. However, if that is changed and industry would be closer it could change their quality of life drastically.

Mr. Hollenberg and his wife are very concerned about the inevitable decrease in their property value and quality of life. He talked to some realtors and found his property decrease would be in six figures. Mr. Campanello asked if the people he discussed the property value with were appraisers or realtors. Mr. Hollenberg replied they were realtors. He talked to and surveyed some of MorRyde's Grant Street and Moyer Avenue neighbors and they gave him a different picture than what MorRyde described. He said they told him about the noise, the fumes, trash, vibrations, and truck traffic that they have experienced living near these plants. Mr. Hollenberg believed even as far away as they are now from the Cooper plant they have put up with some of these same problems and bringing them closer would amplify them. He felt their noise analysis is flawed, because it underestimates the noise levels they would experience and the effectiveness of the berm and fence commitment is greatly overestimated. He said he would provide more information on this with the Commissioners on this topic. The soil in his area is very sandy and the water table very high, and he is concerned about chemical spills getting into well water. They are concerned about the 20 foot light poles and general unsightliness of a facility with berms and fences, especially as it gets older. He imagined what the site might look like in 10 to 20 years and MorRyde may be down on their luck a little, what if they are not able to maintain the berms, they do not want to, or another owner does not want to take care of the berms; then they would have a real eyesore and the property value would take another hit. From his calculations the berms will be at a 30 degree angle, and those would be difficult to mow. He questioned how it would be maintained so it would look nice in a residential area.

MorRyde's contention that there are plans to mitigate these concerns to make their factory, essentially, invisible to the residents is hardly believable. Mr. Hollenberg truly believes that this issue will be a litmus test for Elkhart County. Will the Commissioners be accountable to their plan or would their decision send a message that homeowners everywhere in the County have no protection from the intrusion of industry and the homeowners' desire to live in this quiet, safe, attractive neighborhood cannot be guaranteed.

Mr. Hollenberg quoted from the Land Use document, "As ambitious as this document is, it accomplishes nothing unless we are held accountable for its implementation, in managing and improving our built environment in the decades to follow." Mr. Hollenberg felt that means that this document, adopted by our Commissioners, is challenging themselves to be held accountable to their own vision for what is best for our County's land use planning. With that in mind, he questioned why this petition is even being considered and why did the Commissioners make such a strong statement that this plan be implemented because the same document says, "the Commissioners, the Plan Commission, the Board of Zoning Appeals, and Redevelopment Commission have intended to make Elkhart County a unique and vibrant place in which to live, work, recreate and find inspiration." He thought it was a beautiful vision for our County, but it cannot be achieved by the intermingling of industry and residential areas. They have to be segregated into their unique and well planned spaces.

Mr. Hollenberg believed it is a common perception that industry usually wins in this County and this rezoning request has some of our neighborhood already thinking about whether they want to live here. He has no doubt that if the West half of this MorRyde property is rezoned it will just be a matter of time before the East half is rezoned also.

He thought if they were to protect the integrity of the school environment and neighborhoods from slow decay this land in its entirety must not be rezoned. Industry must remain within the already zoned quarter to the West.

Mr. Hollenberg mentioned the buffer using mature pine trees, but what happens with white pine trees is as they mature they thin out, so eventually there would be a bunch of telephone poles with green at the top. He did not feel that would be a buffer. He felt it would be up to the County to try to have MorRyde rectify that. He asked for questions.

Roger Miller asked how deep one of the A-1 properties going east/west was. They thought around 300 ft. Roger Miller asked if that would be adequate to buffer him from the M-1 PUD beside it. Mr. Hollenberg was aware that is a storage area and they are a very nice neighbor. He said they store boats and collectible cars. They don't do any manufacturing there and it is not noisy at all. Roger Miller asked if he could see MorRyde from his property. Mr. Hollenberg replied he could in the winter time, but not the summer and they still hear noise. He said if they walk around the back of his property there is trash from the factories. Roger Miller thanked him for his comments.

John Hulewicz, 53526 Brittany Trail, Elkhart, lives on the cul-de-sac across from Stephen Hollenberg. He and his wife have lived at this address for nearly 20 years and their house was the second home constructed in Brittany Trail. He can stand in his bedroom and through the window view Eastwood School, the traffic light at CR 6 and CR 15, and he can even see the water tower. He can also look out and see the pasture that was formerly King's property. During the winter he can look through the woods, see the lights, and hear the sounds that emanate from the industrial park. When they purchased this property to build their home they purchased it because of the surrounding residential and agricultural landscape and to provide his son an opportunity to attend one of the finest elementary schools in Elkhart. The Eastwood Community School was and still is a special place to raise children. At the time, this was his largest investment and still is one of his most significant investments. When he purchased his property there was no industrial development East of CR 113, nor North and South of CR 6, because that was all agricultural land.

Mr. Hulewicz stated that this area continued to grow with significant residential development; Woodside Estates, Hunter's Run expanded, and most recently Timberstone. Forest River attempted to purchase and develop the property East of CR 113 and South of CR 6 and was denied. In 2006 Remington South was developed, but only after compromise with adjoining landowners Hollenberg and King. Each adjoining property owner was afforded the opportunity to reasonably purchase acreage to create a buffer between their homesites and the DPUD. The developers of Remington South and the Plan Commission recognize the need to maintain the separation between the industrial development, the residential community and Eastwood. One of these parcels is now being offered for rezoning.

Mr. Hulewicz said further on down this process after they initially heard, they were thrilled the Elkhart Community Schools jump on board and say it really does not make sense to have industrial zoning next to the schools. He stated that they do not want to see that. The Eastwood PTA and four homeowner's associations have opposed the plan and numerous letters have been written against rezoning outnumbering the petitioner's 2 to 1. The support of the petitioners comes primarily from employees and vendors. The people that oppose the rezoning's support has come from the community, the residents, and the school system. MorRyde originally planned on rezoning all 22 acres, which was withdrawn before the Plan Commission last month. This proposal only opens the door for what their entire hope was and that is to have the entire 22 acres rezoned at some point and time. Tax realizations that MorRyde claims can only be seen in their proposal with the entire 22 acres of rezoning utilized. This is based on the tax that they pay on their current structures along with their chassis storage and that acreage.



Mr. Hulewicz said the available property to the South offers the same benefits. Research has shown that employees at MorRyde at the beginning of the production area earn approximately \$7.50 to \$9.00 an hour and with bonuses to make \$10.00 to \$12.00 an hour. Many people would not call this a living wage. He said he is not talking about an Oracle or Microsoft, a Biomet, or a Zimmer that would bring professional technical expertise to the County with high paying jobs. Mr. Hulewicz said this is what the County desperately needs, is a change in attitude when it comes to the type of facilities that we encourage to develop. MorRyde claims that a fourth campus would be an issue for them, but they were not hesitant in developing this third campus when the time was needed.

As a Board, Mr. Hulewicz asked that the Plan Commission not continue this trend and asked that they consider the green space that is best left the communities and agriculture as a buffer rather than changing it for industrial use. He said that Elkhart County is shrinking because of the consistent expansion into livable communities, because they do not see residential developments in industrial parks and they do not see schools purposely building next to factories, yet they see industry banging down the door for cheap land rather than pay the price for properly zoned land.

Mr. Hulewicz asked that they consider changing the precedent and telling them that there is plenty of other space available to them to build where they should build. He felt they should quit condemning the residential communities in exchange for profit and poor planning.

Mr. Hulewicz also wanted to point out that Mr. Weaver said the economy was at scale and that is why they wanted to keep a tight campus. He said they could be afforded that immediately South of their current facility. Recently, EDC said Elkhart County is number one in job growth and there are plenty of opportunities for employment. He did not think that should be the most critical factor when considering this proposal. Mr. Hulewicz noticed that Mr. Weaver made an analogy to the labor force in the 1980's, but Mr. Hulewicz thought everyone realized that the current population of Elkhart County is significantly larger now than it was in the 1980's. Therefore, he did not think those numbers could be compared to what occurred 30 years ago as a labor force. Mr. Hulewicz asked if they had any questions and Roger Miller thanked him for his input.

Beth Yeager, 53210 CR 15, Elkhart, lives right across the street from Eastwood School. She stated that back in 1975 she and her husband farmed everything from CR 6 to Bainbridge Street and she has seen all of this growth since then. She saw Eastwood School being built and everything else that has developed in that area.

Mrs. Yeager said the thing that got her was that they owned the farm on CR 6 where the industrial park is now. If she would not have sold it, it would not be there. Now there is a company called Americana that came to her door before the zoning change and told her there was not going to be anything put outside, stacked, stored, or anything. Mrs. Yeager said last night she saw out of her kitchen window stacks of pallets, and other things, lights in the building that shine into her kitchen, and her son's house because he lives further down CR 15. Mrs. Yeager was told one thing, but they are doing something else, so that is why she is curious about what MorRyde really plans on doing and if they will stand behind their word. She thought it may be coincidental, but she just received a statement from the Assessor's office and she did not think taxes would change, but now her house is now worth around \$30,000 less than it was. Mrs. Yeager then thanked the Plan Commission.

Bruce and Debbie Van Dyke, 53494 Brittany Trail, Elkhart, said he wanted to make it clear that they strongly oppose the rezoning. Their home was built in 1996 on five acres. They have invested significantly in the Eastwood community just as others have. He believes it is a great

neighborhood and school. His granddaughter attends the Eastwood elementary school and his daughter considers it the best elementary school in Elkhart. Mr. Van Dyke expressed some of his additional concerns are that the property value will drop 20% and they also fear the back view from their home will see a 28 ft. berm as of today with factory buildings atop of that height. When the day comes that they decide to sell their home he is concerned that it would be difficult to find a potential buyer, because the factory is too close. He did not think anyone would spend top dollar on a home that is so close to a factory when there are other desirable properties available in Elkhart. With that said, he asked where it would go in the future, he questioned if he should relocate and move out of Elkhart, because they can't keep industry away from residential. He felt that is where they are at right now and he is very disappointed. The Board thanked Mr. Van Dyke.

Bill White, 22804 Fair Oaks Court, Elkhart, is the secretary of the Hunters Run homeowner's association, and wanted to share some of the seven points that the petitioner makes in their initial petition.

The petition states the petitioner has demonstrated both a need for and benefits from this zoning map change, but there is no need, because a property is available near the current facility already zoned for industry. He said that benefits are clearly going to the petitioner, but benefits to the County would be the same for using property already industrial. Injury will be done to neighboring residents at Eastwood School.

Mr. White noted that the petition states that the proposed land use of industrial is the highest and best use of the subject property, but this is not correct. One standard expectation for highest and best use is that it must be legally allowable. He stated that it is not not legally allowable and should remain that way.

The petition states the zoning map change is a result of "significant neighborhood change", but there have been no changes in the nearby residential areas except that the Timberstone development has reinforced the residential nature of the CR 15 corridor. The change proposed in the petition would be the most significant in decades.

The petition states the zoning map change is consistent with the 2006 Comprehensive Plan for Elkhart County, Indiana, but the 2006 Comprehensive Plan specifically calls for industry to expand to areas already zoned for industry and calls for protection of residential areas; therefore, granting this petition would do neither.

The petition states the zoning map change is consistent with Indiana State Law, but this is not a correct statement as just noted, it does not give reasonable regard to the Comprehensive Plan, the change is not the most desirable use, and it does not conserve property values in the area, yet all of these are stated in the petition to be requirements of State Law.

The petition states any potential impact on surrounding properties can be mitigated through the use of conditions adopted as part of the zoning map change, but it is frankly, incomprehensible why anyone would believe that an eight foot high berm with a fence on top would be regarded by nearby residents as a mitigation. That creation, together with the lights on 20 foot poles, and a large building will create blight on the landscape. It is what one expects to find around prisons and landfills.

The petition states the petitioner has demonstrated past history of integration of industrial uses with residential uses, but not all current neighbors agree that the petitioner is a good neighbor; more importantly, the example cited may apply in urban areas, but are inappropriate in a suburban setting.

Mr. Van Dyke stated that one aspect of the whole process has him deeply concerned. The fact that the petitioner purchased this land before it was rezoned carries a strong implication that the petitioner thought the rezoning would be easily granted and judging by the Staff assessment they must know the system in place here. He has lived in Elkhart County for more than 35 years and likes the County very much. They have admired its ability to be a good place to live and a good place to work. If this kind of encroachment into a residential area and the backyard of an elementary school is granted to fulfill these clear expectations of the petitioner, in accord with the Staff assessment that clearly favors industry over residents he will be forced to conclude that he was wrong. It may be a good place to work, but may not be such a good place to live.

Lori Miltroka, 53342 CR 15, Elkhart, is concerned about the noise. She said when they go out of their front door early in the morning or afternoon they can hear birds from across the road and there is a hawk that has nested in a tree, they can hear children play on the playground, and they hear beeping noises from either forklifts or trucks that are backing up from the industry, clear across the field. She wanted to let the Plan Commission know that they say there is not going to be a noise issue, but she wanted to tell them that the buffer they are talking about is not adequate.

Mary Kasa, 22750 Timberstone Court, Elkhart, is the president of the homeowner's association and is here to represent the 87 of 90 residents who signed in opposition of this petition. She stated that they had made substantial investments in their homes and she actually moved to that neighborhood from a much larger property when her husband was diagnosed with a terminal illness. Ms. Kasa bought into that neighborhood because her husband saw it as a good investment for her when she would be alone, as she is today. As a retired English teacher she felt it was necessary to bring to everyone's attention the actual definition of mitigation. According to Webster's Collegiate, to mitigate means to cause to become less harsh or hostile, to make less severe or painful. She thought if they had listened to all of the remonstrators today they would have to understand that what the petitioners see as mitigation is seen by the remonstrators as intrusion and along with the potential damage to the value of their property. Ms. Kasa explained that to many of the people in her neighborhood, which includes at least seven other widows, their homes are a major investment and there is an impact of industry creeping into CR 15, and she thought this was just the first step of the incursion that will happen if this is allowed to happen. She said this is what she has to give her children and if they allow it to be devalued then they are slapping her children in the face.

Another point that has not been brought up is that she has had numerous people with businesses near the Grant Street factory and even in a response written by Mr. Weaver to one of the earlier remonstrance letters, he stated that they had worked with the neighbors in the area who were concerned about bins being dropped. The business owners she spoke to who talked about bins being dropped said this is so startling that they, on occasion, have jumped in their skin. Education today is a high stakes testing environment and she will not tell them it is a good thing, because she feels they are ruining it. The things that kids cherish and love about their school experience are not the tests, but if there is a child in the middle of a high stakes test and there is a startling noise from a factory nearby how is he going to refocus, particularly, if he is burdened with attention issues.

Ms. Kasa also wanted to point out that in their petition they made the mistake that they were an age restricted neighborhood. She informed them that was not correct the ages run from 25 to 93 and they have a majority of senior citizens, but she was offended by this idea, because it suggested to her that old people and their property do not matter. She then concluded her remonstrance.

Jennifer Deputy, 22623 Timber Court, Elkhart, will speak on behalf of Peg, herself, and her neighbors, that voted against this rezoning, and also her beloved father who formed Hunter's Run,

Hunter's Pointe, and Brittany Trail.

Ms. Deputy pointed out that Jennifer Lane and Reed Court was named after her and she also is an Eastwood alumni. She stated that she has a lot invested in this as a family and a community, so she read a letter from her father, who is now retired.

Mr. Duputy's letter to the Plan Commission, "Quality of life is at issue in your decision. As the original residential developer of Hunter's Run and Brittany Trail, one of his foremost concerns was to create quality neighborhoods for families. It was never about maximizing their profits on the developments. To be more specific, decisions made by home buyers are heavily determined by the safety of their families. Of course, this is heavily focused on their children's safety. This is why the sidewalk was installed along CR 15 to allow safe access to Eastwood School. An exercise park and soccer field was created at Hunter's Run to afford an off-street play area for children.

The decision to expand industrial zoning into this neighborhood area flies in the face of all of the above. We all appreciate the desire of the Commission to facilitate business expansion and the opportunity for additional employment in Elkhart. Hopefully, the method that is employed to gain the objective does not impinge on the rights of other residences and persons to enjoy the peaceful quietude of a safe residential neighborhood.

As a retired industrial member of the Elkhart community and residential developer, I strongly urge you to vote against this rezoning request for the protection of those that have made the largest investment they may ever make in locating in these residential areas that will be affected negatively. I have spoken to a number of the area residences since the issue has been raised. They deserve to be heard and represented by you, the Commission. Once this zoning is approved, none of you can guarantee or assure the residences affected that it will be a positive to their current position. Yes, it will be great for MorRyde or they wouldn't be requesting the modification of the current zoning.

Elkhart's quality of life is not just about employment, although important, it is about a great place to raise a family and all that this entails. The allure of an increased tax base from an industry does not justify the sacrifice of the safety of children, the peacefulness of our residential neighborhoods and the degradation of residential property values potential. In short, "THE ENDS DOESN'T JUSTIFY THE MEANS".

As the developer of much of this area, I can assure you that if this zoning had been in place allowing for industrialization adjacent to this residential area, in no circumstances would we have invested building these residential subdivisions in this area. You are in the position to protect these people, I no longer am, do what is right for them." Signed, Truly yours, Larry Deputy, President, CR 15 Corporation *[attached to file Remonstrator Exhibit #2]*.

Doug Graham, 53523 CR 15, Elkhart, and he is the fifth and final of the unanimous homeowners of Brittney Trails that are against this rezoning. He believed between the five residents and Eastwood School it should be evident to this Board that they, unanimously, do not want this rezoning to be done. On the other hand, he applauds MorRyde and believes they are a great employer, a great corporate citizen, and they are proud to have them as part of their community, but not part of their development. Mr. Graham is an adjacent property owner, a tax payer, a businessman, a real estate broker, and a voter and felt there will be significant negative financial impact of this zoning encroachment continues around this County. As he tours this County with prospective people that want to move into this area he already has to answer for some of the mismanaged zoning that has happened around this County. He has to try to explain away why there are industries right next to residential developments and he felt they need to stop this. He

stated that Elkhart County has a Land Use plan, which is a guideline, but they need to follow it and protect our people. He reiterated that he applauds MorRyde they are a great company and from his perspective as a businessman they show support planning. Mr. Graham indicated they built a building where it is landlocked, purchased property before it was properly rezoned, but that is the chance you take. He said he would not have done that, but on behalf of the citizens and the children of Eastwood School he asked that the zoning request be denied.

Roger Miller pointed out that the last presentation was redundant to what was heard before, so he allowed a few more to speak, but if they had something totally new to say he would be glad to hear it.

Jim Meyers, 54137 Old Mill Drive, Elkhart, taught at Eastwood for 40 years. He is totally against the land swap situation. Roger Miller informed him that the Plan Commission is not dealing with land swap issues. Mr. Meyers said he is against the rezoning because he gets the feel of people around him. He stated that he has had several people tell him that they will leave Eastwood School if this goes through and they are not the type of people you would want to leave Eastwood School. He said these people are leaders. Mr. Meyers had a young man tell him that he would sell his property, because he knew what would happen. He thought they would rezone one section, then rezone another section and so forth until they are all the way down to CR 15. Mr. Meyers believed there would be a decrease in population and people would be selling their homes and get out while the getting is good.

Mr. Meyers had gone out to a restaurant and overheard a customer talk about rezoning, so he asked him if he was referring to the MorRyde/Eastwood rezoning and the gentleman told him that was correct. Mr. Meyers discovered the gentlemen were from Carmel, Indiana, and they wanted to purchase property in Elkhart County to build six homes from \$130,000 to \$330,000. They looked in other areas but some were too big and others had no restrictions. However, they liked the Elkhart Community Schools but, they felt they would be foolish to build their home in Elkhart, Indiana and have an industry or factory built next to it.

Mr. Meyers looked at the land use guide that says to protect residential properties and be sensitive to schools. He did not see that happening. He has taught students for over 40 years the value of what is right and what is wrong. He believed this is an issue of trust, honesty, integrity, and morality. Morally, he knew that all of the people that are fighting this rezoning are right. The school and housing development were there first. Now they will get an idea of the amount of trust, honesty, integrity, and morality that each person has. Mr. Meyers felt these are the individuals they have entrusted to their welfare and their families.

Tom Butler, 23027 Scottswood Court, Elkhart, has lived in the Old Woodside area for about 12 years. He said he specifically moved into that area because of Eastwood School. Mr. Butler values education very highly and he is a very educated person. He has a Masters of Science and Environmental Science in Bloomington and he went to the School of Environmental Affairs. What they did was analysis to study the economic benefits and costs for government programs and analyzed these types of trade-offs that happen between people that have different economic self-interest and to try to determine what the best interest of society is. He believed that is the Plan Commission's role as government officials to balance those things out, not emotionally, but analytically and objectively. Mr. Butler heard that real estate agents and developers that build homes know very clearly, intuitively, from the business that they know the analytical difference in home values that will occur, not only for the people that have their homes in the backyard of this factory, but because this is so extremely precedent setting. As a particular extreme example, to zone

an area that is previously wooded in between a subdivision with some of the most valuable homes in that entire region, in one of the best schools in the entire region, is about as extreme of a zoning change as you can possibly make. This has precedent setting ramifications for each and every resident of Elkhart County. If you own a home in Elkhart County and this kind of precedent occurs people are going to want to know about it and it will spread and could affect Elkhart County's reputation that they will site factories just about anywhere and good luck protecting the value of your house.

Mr. Butler stated the Master plan that we have spent so much time and energy approving and understanding. Mike Yoder was a big proponent of that plan and his opposition was primarily against it for that Went to school for environmental affairs. Real estate knows the analytical difference in home values will occur. To zone an area previously wooded in between a subdivision some valuable homes, has precedent setting ramifications. The master plan they spent so much time approving indicate that the guidelines do not do anything. He suggested a study be done and the type of study they did in Bloomington were far more complex, detailed and challenging than just the simple value analysis of residential property values that go down in these types of situations. Mr. Butler felt there were all kinds of precedents in Elkhart County in the area and they are very easy to study. Real Estate Agents and developers know it intuitively. Mr. Campanello asked if the person was a real estate agent or appraiser. He thought that person may have been an experienced real estate agent.

Mr. Butler felt it would be no problem at all to do the type of analytical study to balance out the costs. He said the costs they are really trying to balance out are the costs of buying that adjacent property for MorRyde and that additional building that is already to the South that exists. Essentially, what MorRyde is saying is they have to build a new building because it is more economically efficient for them in production and it is contiguous. Mr. Butler believed that made perfect sense, so there is the value right there. He thought you could analyze the value of what it costs to take the building down and build a new one and to buy that property relative to the adjacent property. That would give them the cost. On the other side, there is the cost for a precedent setting decision that would lower the land value, most obviously, to every developer, house developer, and real estate agent in Elkhart County. He believed that they understand that and anyone that thinks about it understands that if you set a manufacturing facility in a wooded lot between one of the best schools in the area and some of the biggest homes in the area that is a tremendous cost and what is the cost of that precedent setting decision to all people who own homes in Elkhart County. The Plan Commission thanked Mr. Butler for his comments.

Roger Miller assumed there would be no more new input. Mr. Kolbus stated that the petitioner has right to respond to any questions that were raised.

Mr. Weaver stated that much mention was made of the school board resolution and decision that was put forth. He referenced one of the letters in the packet he furnished. One of the reasons for the ten acres that was withdrawn was the fact that the school management team came of him with the idea of a land swap. It would be 10 acres for 10 acres. He read that their resolution stated, "Whereas it is not conducive to a school learning environment to have the property of any of the schools surrounded by manufacturing and industrial operations." Mr. Weaver clarified that they were clear in their wording to indicate 'surrounded', obviously, retaining the 10 acres there does not surround it and, of course, the 10 acres that exists behind the school is quite a buffer also.

Mr. Weaver just mentioned that Timberstone is under development, and Tim Miller's development is adjacent to an existing E-3 which can have these same kinds of uses. He pointed

out that they agreed in the conditions to maintain the sidewalk out front and MorRyde has agreed to commitments from the Staff. The Plan Commission Staff has analyzed the application to recommend approval and is in conformance with the issues that has been brought forth.

Mr. Weaver added that as they looked at the distances from any development to the MorRyde property they are significant. MorRyde has come to the Commission for the request for M-1 with commitments that are enforceable by the Staff and they are willing to spend thousands of dollars to make the fencing look nice and to try to mitigate and eliminate the impact on the neighbors. MorRyde is almost 780 ft. from CR 15, so they will not impact CR 15.

Finally, the back of Eastwood Schools 10 acre piece has a fence and behind that is a 30 ft. tree buffer, because as part of Remington Park there was a requirement to leave a 30 ft. buffer of existing trees. Mr. Weaver really feels like they have attempted to deal with the concerns with one of the big concerns being no access to CR 15, the distances that they are from the homes, and the school is significant. He made copies on the back of his packet of other schools that are adjacent to railroad tracks, significant manufacturing operations in New Paris, Bristol, and Goshen High School that is in a commercial/industrial area. He did not think MorRyde is a precedent by having some development in this area. He reiterated that the school is not surrounded or in violation of the resolution that the school board passed.

Mr. Campanello asked about a commitment that R-1 stays R-1 and rezoning the proposed building site the on property to allow for one building and then do not go any further back. R-1 would stay R-1 and they can only put one building on the proposed property. Mr. Weaver said he would like to have the opportunity with the investment and mitigations to develop more. Right now they do not have any plans for more, but with the investment they still hope to work with the school on developing some type of land swap.

Roger Miller wanted to go through a couple of points. He thought a big issue was the property available to the south and he asked if that was an option. Mr. Weaver said they are not personally aware if that property is available. He said there is a realtor sign in the front. Roger Miller asked if it had a storage facility on the property and Mr. Weaver said it does. He did not know what the expense would be to remodel and being able to utilize that existing facility is not necessarily financially feasible to remodel, retrofit, and attempt to do the manufacturing they would like to do. Roger Miller questioned whether the issue with the noise level reading was accurate. Mr. Weaver replied that there is no requirement for them to do a noise study when bringing an application to the Plan Commission. Roger Miller agreed, but wondered how he came to the conclusions he did. Mr. Weaver said it is HUD methodology which related to a home that had 75 ft. setback. The berm and the fence, intuitively, stops noise, trash, and everything else, because it is an obstruction. Mr. Weaver said they looked at the loudest noise they thought they could have there.

Roger Miller thought the other issue had to do with the sandy soil and chemical spills. He was not sure what kind of chemicals MorRyde uses. Mr. Weaver said none and they are on sewer and water, so they are infill in industrial expansion that has happened in the area. They are not out in the County going on a commercial septic system somewhere. The worst could be that they move chassis around, a diesel from a tank that broke might be the worst. They do not use chemicals to speak of in their application, except WD 40, because they are not a maker of foam, but they are metal fabricating.

Once again he wanted to bring to everyone's attention that there are sites in Elkhart County where residential is butting up against existing M-1. He pointed out that all of Timberstone would be butting up against E-3.

Mr. Campanello noted that Mr. Duputy's letter said that was not zoned manufacturing at the time. Mr. Doriot thought that property has been rezoned recently, because he saw a lot of the people here remonstrating now that were then remonstrating about traffic. Mr. Campanello asked when CR 113 was rezoned from A-1 to M-1 DPUD in that area. Mr. Weaver thought it was 1999 to 2004. Mr. Weaver reiterated about the noises and sounds and the fact that there had been no complaints or no code enforcement actions either from the County Staff or from the City related to a MorRyde project. He stated that Staff had reviewed the 50+ page application and they tried to get the most detailed, most completed application they could and tried to answer all questions. The Staff recommended approval and there is a letter from the Vice President of the Lake City bank that is good and he supports the 12 acres, but would not support the 22 acres and supports doing something with the school. The 12 acres has significantly less impact than the 22 acres. The distances from residential are significant and there are other residential that are going up against similar uses.

Mr. Campanello's concern is the lack of commitment keeping an R-1 zone an R-1 zone. Mr. Weaver said alright, they would commit to have it stay R-1. He clarified that MorRyde needs for their campus, to expand 12 acres, as far as they can see it will serve their purpose. They have no illusion that bringing this 10 acres back in its current form is going to be a significant hurdle to overcome. Mr. Weaver indicated that they are still hopeful that they will end up doing something with the school. MorRyde has a strong desire to expand in this location. As they have looked at future development 12 acres serves them very well. He assured them that anything they would do in the future would come back to the Plan Commission. The 10 acres was set aside that, hopefully, they would come to some agreement with the school, but if they don't it stays 10 acres in some way shape or form residential that is fine.

Mr. Kolbus commented that a commitment can always be modified by this Board and/or the County Commissioners, so even though they may decide, with all due respect, they would have a right to repetition this Board to change that commitment at some point and time. He did not want to give anyone at this meeting the impression that would be a permanent situation. Mr. Kolbus did not see how it could be done legally, unless they do it privately by deed restriction of some type and that is not in his purview to give a legal opinion on that. Mr. Weaver stated, obviously, if he brought it back later and said they were not going to do it that would be a greater hurdle to overcome. The Board told Mr. Weaver they did a good job.

Roger Miller asked how long they had been in business. Mr. Weaver informed them since 1966 for MorRyde and the grandfather business since the 1920's and they have been at that location on Moyer since 1966.

Mr. Doriot mentioned one of the things brought up is the maintenance of the berms. He asked if they were irrigated. Mr. Weaver told him they were and he clarified that is a commitment; not a covenant restriction. He said a subdivision is a covenant restriction that is only enforced if they sue them, because the Staff cannot enforce it. Mr. Weaver reiterated they are making this as a commitment that those berms be put in they are shown, and they will be committed to that and that is something that is enforceable.

Mr. Doriot recalled that they discussed using recycled asphalt and recycled concrete. He asked if they do any other dust control or will they if it becomes dusty. Mr. Weaver said that MorRyde reacts to neighborhood questions and any complaints that come to them. Recycled asphalt and recycled concrete was used on the lot where the trucks or trailers are and they tar it every once in a while. He pointed out that page 26 of the packet gave the definition of M-1 and it



details what they are not allowed to do that is injurious to the health or safety of humans or animals. Mr. Weaver said within the uses that are allow if something not allowed would take place it is an opportunity for Code Enforcement. Mr. Doriot asked if the lights to the school are on 24/7. Mr. Weaver did not know. Mr. Doriot asked if they are on at night and he was told some of them are.

Roger Miller was very impressed with presentations on both sides.

Mr. Campanello reiterated that this petition would be more palatable if MorRyde came back with a deed to change the zoning to R-1 saying that they will not expand anymore. Mr. Weaver stated that they could work with Staff to come up with a deed restriction or something. He said that leaving it open to the opportunity to swap it with the school becomes school property anyway. Mr. Kolbus informed them that it would have to be something satisfactory to the Commissioners, because they are the ones deciding it. Mr. Weaver said they would work with Staff to come up with something.

Frank Lucchese commented that his main concern is the Brittany Trail residents and their property lines. He used to live on Arrowwood Drive, but his concern was the Brittany Trail residents. Mr. Weaver understood and in all the photos shown they could see all the trees and he understood the concerns, but he indicated on the GIS maps that there were other residential and industrial properties adjacent to each other. He explained, once again, that they commit to berm, fence, and mitigate to minimize the issues of concern; they will plant trees, there are 14 commitments or so, and there will not be traffic on CR 15.

**Motion: Moved by** Blake Doriot, **Seconded by** Tony Campanello, 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:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 and R-1 to M-1 be approved as presented by Staff and the petitioner for the following reasons:

1. The additional commitment from the petitioner that the proposed line will not be moved eastwardly from what is presented.
2. That there is no access to CR 15 thereby reducing the impact on the school.
3. That the proposed buffers are sufficient.
4. That this petition is in a place where industry has grown and was shown to grow over the past, and with the commitments, they are reducing the intensity of the industry.

The following conditions were imposed:

1. The Board of County Commissioners approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Plan Commission staff for placement in the petition file.
2. The Zoning Administrator may not grant an Improvement Location Permit for the property until the Site Plan/Support Drawing for the existing MOR/Ryde site to the west has been amended to show access to the subject property and until a plat combining the two parcels has been approved.
3. The Building Commissioner may not grant a Certificate of Occupancy for the property until an as-built drawing, prepared by a licensed Indiana Land Surveyor, has been approved by the Plan Director.

The following commitments were imposed:

1. Any development shall be served by City of Elkhart Municipal Water and Wastewater Utilities.
2. No vehicle access shall be allowed to County Road 15. This commitment shall apply to access via easement. All access to the subject property, including emergency vehicle access, shall be from either Cooper Drive or Frederic Drive.
3. Any development shall require Best Management Practices for stormwater quantity and stormwater quality.
4. A fifty-foot wide buffer shall be maintained along the south property line.
  - a) The buffer along that portion of the south property line abutting the recorded plat of Brittany Trail shall include a berm, no less than eight feet in height, topped with a panel fence, no less than six additional feet in height, for a total of no less than fourteen feet. Trees shall be planted or retained along the exterior (toward the property line) side of the berm within the buffer.
  - b) The buffer along the remaining south property line shall include a panel fence, no less than six feet in height. Other than as required to construct said fence, all trees within the buffer along the remaining south property line shall remain in place.
5. A buffer, thirty feet in width, shall be maintained along the north and east property lines. The buffer along the north and east property lines shall include a panel fence, no less than six feet in height. Other than as required to construct said fence, all trees within the buffer along the north property line shall remain in place. In addition to the panel fence, the buffer along the east property line shall include tree plantings consistent with the plantings proposed adjacent to the Brittany Trails subdivision.
6. Development of the subject property shall not impede legal pedestrian travel to and from Eastwood Elementary School.
7. All exterior lighting shall be shielded from residential structures and be “dark sky” fixtures. No free standing light pole shall have a height greater than twenty feet.
8. All surfaces meant for driving or parking shall be an improved, hard surface, which may include recycled concrete or recycled asphalt.
9. Specifically for this Subject Property, the following “Limited Manufacturing Uses” as listed in Specifications D’ of the Elkhart County Zoning Ordinance shall not be permitted on the Subject Property:
  - 2.00 Acid manufacture, other than those acids specified as conditional uses in the "M2C" District.
  - 6.00 Batteries, manufacture and rebuilding.
  - 12.00 Building equipment; yards for building materials; lumber, coal, sand and gravel yards; yards for contracting equipment, maintenance or operating equipment of public agencies, or public utilities, or materials or equipment of a similar nature.
  - 13.00 Bus line shops and garages.
  - 16.00 Carpet and rug cleaning.
  - 18.00 Cartage, express hauling or storage yards.
  - 20.00 Chick hatcheries.
  - 21.00 Cleaning and Dyeing Establishments, if using more than two (2) cleaning units and if using cleaning fluids approved by the State Fire Marshal Department.
  - 22.00 Cigarettes and cigars.
  - 25.00 Creameries and dairies.

- 34.00 Kennel. (Amended 5/21/2012 PC12-04)
  - 35.00 Laundries with more than one thousand (1,000) pounds daily capacity.
  - 36.00 Livestock sale or auction.
  - 39.00 Motor freight terminal, private.
  - 42.10 Pet Shop with outdoor pens and/or runs. (Amended 10/20/2003 PC03-31)
  - 48.00 Storage and sale of trailers, farm equipment and similar equipment on the unimproved part of any lot.
  - 50.00 Storage of flammable liquids, fats or oil in tanks, each of no more than fifty thousand (50,000) gallons capacity, and only after the location and protective measures have been approved by all responsible County and State officials.
  - 51.00 Stone, marble and granite grinding and cutting.
  - 57.00 Truck terminal, including exchange and hauling of freight.
  - 58.10 Veterinarian Clinic with outdoor pens and/or runs. (Amended 10/20/2003 PC03-31)
10. Specifically for this Subject Property, the following “Business and Wholesale Uses”, as listed in Specifications C2 of the Elkhart County Zoning Ordinance shall not be permitted on the Subject Property:
- 1.00 Any Commercial Use permitted in the "B2C" District.
  - 2.00 Agricultural implement sales and services.
  - 3.00 Air conditioning and heating sales and service.
  - 6.00 Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaning.
  - 7.00 Battery and tire service stations.
  - 9.00 Blueprinting and photo stating establishments.
  - 10.00 Bicycle and motorcycle sales and repair.
  - 11.00 Boat showroom.
  - 13.00 Catering establishments.
  - 16.00 Exterminating shops.
  - 17.00 Feed and seed store, wholesale.
  - 18.00 Garage, public, for storage of private passenger automobiles and commercial vehicles.
  - 21.00 Household appliance repair shop.
  - 23.00 Parcel delivery station. (Amended 10/20/2003 PC03-31)
  - 23.10 Parking area, public. (Amended 10/20/2003 PC03-31)
  - 23.20 Parking structure or lot.
  - 27.00 Photograph developing and processing.
  - 28.00 Processing or assembly if the space occupied in a building does not exceed six thousand (6,000) square feet of total floor and basement space, not including stairwells, or elevator shafts; and if that processing or assembly is conducted without noise, vibration, odor, dust or any other condition which might be disturbing to occupants of adjacent buildings. If manufacturing operations of the same of similar products require space exceeding six thousand (6,000) square feet, they shall then be located in the "M1C" Manufacturing District.
    - (a) Advertising displays.
    - (b) Awnings, venetian blinds and window shades.

- (c) Bakeries, wholesale.
  - (d) Brushes and brooms.
  - (e) Cosmetics, drugs and perfumes.
  - (f) Food processing, packaging distribution.
  - (g) Electrical equipment appliances.
  - (h) Ice cream.
  - (i) Jewelry.
  - (j) Medical and dental supplies.
  - (k) Optical goods and equipment.
  - (l) Pattern-making.
  - (m) Scientific and precision instruments.
  - (n) Products from finished materials such as plastic, bone, cloth, cork, feathers, felt, fibre, paper, fur, glass, hair, horn, leather, precious or semi-precious stones, rubber, shell or yard.
- 31.00 Restaurants, drive-in, fast food.
- 32.00 Riding academies.
- 33.00 Sheet metal shop, if the floor area occupied does not exceed six thousand (6,000) square feet.
- 37.00 Used car or new passenger automobile sales, or used car lot on an open lot or within a building.
- 39.00 Wholesale business if conducted wholly within enclosed buildings.

11. No exterior speakers.

**Vote:** Motion passed (**summary:** Yes = 5, No = 3, Abstain = 0).

**Yes:** Tony Campanello, Roger Miller, Steve Warner, Jeff Burbrink, Blake Doriot

**No:** Steven Edwards, Tom Stump, Frank Lucchese

### **STAFF/BOARD ITEMS**

#### 9. *Zoning Ordinance Update – Chris*

Mr. Godlewski felt they were at mid-point in Module 2 with the Staff and in two weeks they will be going to the Policy Committee. The May and June meeting Module 2 will be reviewed at the Plan Commission. At the middle point, he asked for comments or thoughts. He thought they should continue as is. Mr. Godlewski mentioned they still had some bigger questions about residential development and agricultural, but they are not at that Module 2 point right now. That will be down the road. Mr. Doriot asked if they were addressing pyramid zoning. Mr. Godlewski informed him that would be in Section 5 and they are in Section 4 of Module 2 right now. He thought that would be discussed in May and June. Mr. Kolbus thought it would take some time to go through those lists.

Mr. Stump asked Mr. Mabry if there were any zoning laws in Texas. Mr. Mabry informed him that cities have zoning, but counties do not. Mr. Godlewski believed that reasonable zoning applies in this area.

Dwight Moudy, 26894 CR 46, Nappanee, pointed out that manufacturing is very big in Elkhart County, but the County is also number three in the State for agriculture, which does create its own set of problems, because there are geometrically diverse issues. He just wanted the Plan Commission to be aware that Elkhart County is fairly big in the State and it is not getting any

smaller. In the State of Indiana 87% of the farms are 500 acres or less. Mr. Moudy indicated that they are small farms and if you go below 500 acres, 67% are 40 acres. He felt they are working very diligently on the Policy Committee and asked for the Plan Commissions support.

Mr. Burbrink said the Plan Commission appreciates all the work they are doing on the zoning ordinance. Mr. Moudy said after one of the statements made about no residential in agriculture about half of the Policy Committee came to the next meeting and said they were going to quit and there was no point for them to go any further. He said that day he made the statement to them that there is a procedure and they would have to do their jobs and see it through to give the Plan Commission a good ordinance to review and send on. Then when it goes to the County Commissioners they have to do their job and evaluate it, but everyone has to work together to make it happen. He believed if at that point if they get to the end and it is not a good ordinance or it gets turned down then it will be up to the people within the County to decide whether they are happy with it or not. He assured the Plan Commission that the Policy Committee will give them as fair of an ordinance as they can.

Mike Morehouse, 71225 CR 123, New Paris, is a farmer in Elkhart County and was on the Redevelopment Commission for three years representing school boards for Elkhart County. He has a few things to discuss and the first concerned a business at US 6 and SR 15, the Polk Auction Company that is in the process of constructing a new building. He did not understand some of the things that the County is requiring him to do. The Polk Auction Company has been at this location for years and he has three auctions a year. Mr. Morehouse indicated that they want Mr. Polk to build a 50 x 350 ft. retention pond, but there is an open ditch to the west of the property which Mr. Morehouse helped him figure out how to drain. He said there are risers out there and when they get a flash rain the water goes through the risers into the ditch.

Mr. Morehouse felt it was ridiculous to require him to have a 50 x 350 ft. retention pond. He thought there should be guidelines for retention ponds, so people would be required to keep them mowed, keep trees cleaned up, and keep the trash out of them. He believed that they are now becoming dumpsters for all of the factories. He has seen a few companies that had the excavators clean them out and put grass in them, because they dry up and go away. He understood that new companies may have to follow the guidelines and have the retention ponds installed, but Polk has a ditch beside them, so that should take care of it. He felt a retention pond is an eyesore. He felt this County has too many regulations and we are losing residents because of that. Mr. Morehouse stated that common sense had to be used in dealing with each situation. He also did not think Mr. Polk should have to connect to the New Paris Conservancy.

Mr. Burbrink informed Mr. Morehouse that the Plan Commission does not handle all of the concerns that he had mentioned. Mr. Doriot felt that some areas related to the Plan Commission. He stated that someone could come in for a permit to do something to their property and then all of a sudden the landowner is expected to bring their property up to standard. Mr. Doriot explained that the ground Mr. Morehouse lives on does hold some water, but it goes down and into the ditch.

Mr. Stump thought the retention requirements were mandated by the State and Federal Government. He understood why Mr. Morehouse questioned if they are constructing a building why would that require a retention area and Mr. Stump told him that is just how the law reads.

Mr. Kolbus informed him that the retention area has to do with the Health Department and the Plan Commission has no control over the Health Department or the Building Department. He clarified that they are two independent departments. Mr. Burbrink stated there is one group that does have jurisdiction over all of those departments and that is the County Commissioners. Mr.

Morehouse thanked the Plan Commission for their time.

10. A motion to adjourn the meeting was made by Mr. Stump and seconded by Mr. Doriot. With a unanimous vote, the meeting was adjourned at 12:51 p.m.

Respectfully submitted,

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Sandra Herrli, Recording Secretary

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Jeff Burbrink, Chairman