

MINUTES

ELKHART COUNTY PLAN COMMISSION MEETING

HELD ON THE 10TH DAY OF APRIL 2014 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, Steve Warner, with the following members present: Tony Campanello, Jeff Burbrink, Doug Miller, Steve Warner, and Roger Miller. Steven Edwards, Blake Doriot, Tom Stump, and Frank Lucchese were absent. Staff members present were: Chris Godlewski, Plan Director; 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 (*R. Miller/D. Miller*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 13th day of March 2014 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Burbrink/D. Miller*) that the legal advertisements, having been published on the 29th day of March 2014 in the Goshen News and the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

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

5. The application for Primary approval of a one-lot minor subdivision to be known as **HECKATHORN MINOR**, for Kenneth L. & Wanda I. Heckathorn represented by B. Doriot & Associates, on property located on the West side of CR 3, 1/2 mile South of CR 42, in Locke Township, zoned A-1, was presented at this time, following transfer by the Plat Committee to the Advisory Plan Commission (see item 9 of the April 10, 2014, Elkhart County Plat Committee minutes).

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #000CR 3-140303-1*, and the Technical Committee Report.

Charles Buzzard, B. Doriot & Associates, PO Box 465, New Paris, was present on behalf of the petitioners but offered no comments.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Douglas Miller, that the Advisory Plan Commission approve this request for Primary approval of a one-lot minor subdivision to be known as **HECKATHORN MINOR** in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Douglas Miller, Jeff Burbrink, Roger Miller, Steve Warner, Tony Campanello.

6. The application for a zone map change from R-3 and B-3 to B-1, for **Marvin H. & Ruth A. Schmucker** represented by B. Doriot & Associates, on property located on the West side of CR 13, 275 ft. South of CR 142, in Union Township, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 13-140303-1*. He noted that single-family homes were removed from the zoning ordinance as a permitted use in the B-3 district in approximately 1997 and that this is the reason for the request to rezone the homesite, which is zoned B-3. He also noted that the number of commercial uses in the subject area is limited because of tract size, and B-1, a restricted commercial zone, is therefore an appropriate designation. The R-3 zoning at question covers a lot West of, or behind, the homesite and part of the lot South of the homesite. The area West of the subject area will remain R-3 at this time.

Charles Buzzard, B. Doriot & Associates, PO Box 465, New Paris, was present on behalf of the petitioners and said that the purpose of the request is to tidy up the zoning of the subject area, which comprises contiguous parcels. The petitioners run a small electrical business out of their home and have no interest in building apartments or condos. The description provided includes the alleys as requested, added Mr. Buzzard.

Mr. R. Miller asked Mr. Buzzard to specify what property is the petitioners', and Mr. Buzzard said that while the petitioners own several parcels West of the subject property, the property at question comprises the homesite with address of 67515 CR 13, the parcel immediately West of it, and the parcel immediately South of it. Mr. Buzzard added that the Eastern portion of the parcel immediately South of the homesite was rezoned B-1 in 1999.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Douglas Miller, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from R-3 and B-3 to B-1 for **Marvin H. & Ruth A. Schmucker** be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Douglas Miller, Jeff Burbrink, Roger Miller, Steve Warner, Tony Campanello.

** It is noted that Blake Doriot joined the Board at this time.*

7. The application for a zone map change from R-1 to B-1, for **Sabnis, Inc.**, represented by Progressive Engineering, Inc., on property located on the Southeast corner of Page Avenue and Mishawaka Road (CR 20), in Concord Township, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #PAGE AVENUE-140123-1*. He reminded the Commission that the purpose for tabling during the March 13, 2014, meeting was to give the petitioners time to bring forward information about the availability of municipal sewer to the site and whether an onsite system can be placed. The information has not been provided because the petitioners are out of the country. Mr. Burrow said

the item could, then, remain tabled, but public notice would have to be given again before the next appearance of the item on the agenda.

Brad Cramer, Progressive Engineering, Inc., 58640 SR 15, Goshen, was present on behalf of the petitioners and said he has been unable to contact them for permission to perform soil borings, which would show whether a septic system can be placed. The nearest sewer connection available is over 500 ft. away, North of the intersection of CR 20 and Page Street. Thus sewer is not available, but water, which is on the North side of CR 20, is available.

Mr. Doriot asked when the owners could be contacted, and Mr. Cramer said he did not know. The owners were supposed to return two weeks before today's meeting. Mr. Doriot then said the item could be retabled or dismissed without prejudice, but Mr. R. Miller noted staff's approval, saying the request is simply to rezone from R-1 to B-1. He said also that stipulations could be placed on approval, and Mr. D. Miller mentioned that one such stipulation could be approval of the site for septic placement. Mr. R. Miller stated he had no issues with the rezoning itself, and all the Commission members indicated agreement.

Mr. Kolbus pointed out the two commitments appearing at the end of the Staff Report and asked what the third would be, and Mr. D. Miller said it would be approval of a conventional septic system for the specified use. Mr. R. Miller asked for confirmation that connection to city sewer is not available, and Mr. Cramer confirmed. Mr. Burrow added that there is a moratorium on any new hookups.

Mr. Burrow also mentioned that the trees required as part of recommended commitment 1c on page 7d of the Staff Report could interfere with septic system placement, but Mr. Doriot said, "I'm not going to get into plants, into trees." Mr. R. Miller asked why tree placement appears as a staff-recommended commitment, and Mr. Burrow said that the only B-1 buffering requirement is for parking. Mr. Campanello suggested removing commitments 1b and 1c and questioned the consideration of septic system approval as a commitment for rezoning only, adding that the petitioners would have to receive septic approval as part of a building project.

Mr. Burbrink asked whether a laundromat could use a septic system, and Mr. Doriot responded that while that is not the issue at question, the subject property does not have enough room for a system. Mr. R. Miller agreed but emphasized that the request is for rezoning only, indicating that the proposed stipulations were unnecessary for rezoning. Mr. Burrow said, "It's somewhat self-limiting," and noted that a high-water-use business cannot be placed on the subject property.

Mr. Campanello asked whether, in the event the petitioners receive approval and later learn that a septic system cannot be placed, the Commission is putting the petitioners in the position of having to return to rezone again with a proposal for a new business not permitted in the B-1 district. Mr. Doriot said that the petitioners may place any use permitted by the B-1 district, whether low water or high water, and decried the Commission's "micromanagement" of projects over the last 20 years.

Following agreement among the Commission members that placement of a septic system is unlikely to be possible but that the petition is only for rezoning, Mr. Burbrink commented that the petitioners will have a business decision to make and that the Commission needs to consider the rezoning only.

There were no remonstrators present.

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

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

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 R-1 to B-1 for *Sabnis, Inc.*, be approved in accordance with the Staff Analysis, with the following commitments imposed:

- A. Placement of a paved parking area on the property that will accommodate the parking requirements of the use established and
- B. The building and paved parking to be in compliance with setback requirements.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

8. The application for an amendment to an existing Detailed Planned Unit Development M-1 to be known as *JAYCO WEST PHASE III DPUD AMENDMENT*, for Jayco, Inc., represented by Jones Petrie Rafinski, on property located on the West side of S. Main St. (SR 13), 1,165 ft. North of CR 20, common address of 903 S. Main St. in Middlebury Township, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #903SMAN STREET-140303-1*. Mr. Burrow noted that a previously approved site plan did provide for the construction of the detached building at question. Its intended use at that time was storage, but the current petition requests the conversion of the building into a manufacturing facility. The request is in compliance with the intentions of the original Site Plan/Support Drawing, said Mr. Burrow.

Matt Schuster, Jones Petrie Rafinski, 4703 Chester Drive, Elkhart, was present on behalf of the petitioner but offered no comments.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Jeff Burbrink, that the Advisory Plan Commission recommend to the Town Council of Middlebury that this request for an amendment to an existing Detailed Planned Unit Development M-1 to be known as *JAYCO WEST PHASE III DPUD AMENDMENT* be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

9. The application for a Conditional Industrial Unit Development for use as a waste handling/recycling facility, for *Waste Away Group, Ltd.*, represented by Jones Petrie Rafinski, on property located on the West side of CR 7, 1,900 ft. North of CR 26, in Concord Township, zoned GPUD-M-2, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #00CR 7-140303-2*, and clarified that the conditional use now at question and the Detailed Planned Unit Development of the petition to follow are at the same location. The adoption of the

conditional use by a Detailed Planned Unit Development is the next step following approval of the conditional use. This is the process the petitioners opted to undertake, said Mr. Burrow, and the two steps meet a single objective.

Mr. Doriot expressed concern over the tiles running from the landfill pond immediately East of the subject property to the ditch running through the subject property. He said that he would propose adding a condition requiring the petitioners to maintain the tiles or repair and reroute them in case of damage. Referencing the wooded area at the West end of the subject property, Matt Schuster, Jones Petrie Rafinski, 4703 Chester Drive, Elkhart, who was present on behalf of the petitioner, responded that “we’re not touching that backwoods portion at all,” and Mr. Doriot noted that the white lines seen in aerial views of the area immediately Southwest of the subject property are evidence of the presence of tile. Mr. Schuster then said that no tile was discovered during boring work at the location of the proposed building.

In response to Mr. R. Miller’s question about the ultimate plans for the site, Mr. Schuster said the site would be a waste transfer station and recycling facility not for public use. In response to Mr. R. Miller’s concern over dust and odor problems, Mr. Schuster said there would be no such problems because the materials at question will be those such as cardboard, plastics, A-woods, and B-woods. “We’re not talking about having a lot of foods mixed in with the recycled wastes,” Mr. Schuster said. Mr. Campanello asked whether a separation building is planned, and Mr. Schuster said a building for separation, sorting, compaction, and storage is planned.

Mr. Burbrink asked whether Solid Waste Management District boxes would be brought to the facility, and Mr. Schuster said that while existing boxes will remain on another site, “there will be some of those boxes on this site for that.”

Mr. R. Miller observed that few residential uses exist near the subject property, and Mr. Schuster confirmed that much of the surrounding area was rezoned M-2 at the time of the Elkhart Eco Park approval.

Mr. Schuster offered no additional comments.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Jeff Burbrink, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Conditional Industrial Unit Development for use as a waste handling/recycling facility be approved in accordance with the Staff Analysis, with the following condition:

1. Any drainage tiles going through the property shall be rerouted and/or maintained.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

10. Because the Conditional Industrial Unit Development petition for Waste Away Group, Ltd., was considered and acted upon before 10:00 a.m., the advertised hearing time for the zone map change petition for a Detailed Planned Unit Development-M-2 to be known as Recycling Works Industrial DPUD for the same petitioner, a motion to adjourn the meeting until 10:00 a.m. was made by Mr. Doriot and seconded by Mr. Burbrink. With a unanimous vote, the meeting was adjourned at

9:40 a.m.

** It is noted that Mr. D. Miller stepped down from the Board at this time.*

11. A motion to reopen the meeting was made by Mr. Doriot and seconded by Mr. R. Miller. With a unanimous vote, the meeting was reopened at 10:02 a.m.

12. The application for a zone map change from General Planned Unit Development-M-2 to Detailed Planned Unit Development-M-2 to be known as **RECYCLING WORKS INDUSTRIAL DPUD**, for Waste Away Group, Ltd., represented by Jones Petrie Rafinski, on property located on the West side of CR 7, 1,900 ft. North of CR 26, in Concord Township, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #00CR 7-140303-1*, summarizing that the petition is for the adoption of a Detailed Planned Unit Development ordinance that reflects the conditional use site plan. That site plan will become the Site Plan/Support Drawing for the Detailed Planned Unit Development, and the two-step process is being undertaken because the zoning ordinance does not permit adoption of a conditional use by a Planned Unit Development, Mr. Burrow commented.

Matt Schuster, Jones Petrie Rafinski, 4703 Chester Drive, Elkhart, was present on behalf of the petitioner but offered no comments.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Roger Miller, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from General Planned Unit Development-M-2 to Detailed Planned Unit Development-M-2 to be known as **RECYCLING WORKS INDUSTRIAL DPUD** be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

Absent: Douglas Miller.

13. ***Zoning Ordinance Update***

Chris Godlewski came forward at this time to state that the second portion of the zoning ordinance is nearly finished and committee review, which begins May 2014, is scheduled. Recent discussion, Mr. Godlewski said, resulted in a decision to hire a local company to add graphics to the ordinance, whereas an earlier decision was that a single company for both graphics and section 4.4 review would be hired. Securing money for consulting services will be difficult, but it happens that Planning is seeking a summer intern who will create a development manual, a document that will walk the reader through the building process from beginning to certificate of occupancy issuance. Since the development manual will itself require graphics, it was mentioned that the intern should also cover graphics for the zoning ordinance.

Mr. Godlewski then distributed to the Commissioners a graph [*included with minutes as Staff Exhibit #1*] showing Planning revenue and expenditures from 2010 to 2014 and said that discussion with the personnel committee over the graph resulted in establishment of a rate for the summer intern. The graph reveals that expenditures have been flat but that revenue has been up, and this, along with the intern's coverage of graphics for both the zoning ordinance and the development manual, will communicate to the Board of County Commissioners that the hiring of an intern can be supported.

Mr. Campanello asked whether the intern would have enough time to do the work set out,

and Mr. Godlewski said yes, Planning is seeking someone “business ready,” with both planning and graphics background. Mr. R. Miller asked where Planning would find such a person, and Mr. Godlewski said students at Goshen College and Indiana University have been considered. Mr. Godlewski also noted that though three separate graphics consultants were interviewed, turning the graphics project over to an intern is the best idea given budget restrictions.

Mr. R. Miller asked Mr. Godlewski to clarify the intern’s term of service, and Mr. Godlewski said the intern would serve for 12 full workweeks, from mid-May to mid-August. Mr. Warner commented that it would be of benefit to the department for the person covering the graphics project, an intern, to be working with staff on a daily basis, and Mr. Godlewski agreed.

14. *Distribution and Signing of Plan Commission Rules of Procedure and Applications*

Mr. Godlewski at this time said that while updates to the Plan Commission Rules of Procedure were approved November 2014, a signed document was not received from the Commission at that time. The updated Rules of Procedure will need to be signed by the Board secretary.

15. A motion to adjourn the meeting was made by Mr. Doriot and seconded by Mr. R. Miller. With a unanimous vote, the meeting was adjourned at 10:06 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman