

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 14TH DAY OF AUGUST 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: Steve Warner, Roger Miller, Steve Edwards, Tom Stump, Frank Lucchese, and Blake Doriot. Tony Campanello, Douglas Miller, and Jeff Burbrink were absent. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Mark Kanney, Planner; Liz Gunden, Planning Intern; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*R. Miller/Stump*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10th day of July 2014 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Doriot/Edwards*) that the legal advertisements, having been published on the 2nd day of August 2014 in the Goshen News and the 31st day of July in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/Stump*) 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 R-4 to B-1, for **23987 US 33, LLC**, represented by Phyllis Kirkdorffer, on property located on the Northeast side of US 33, 755 ft. South of Sunnyside Avenue, common address of 23987 US 33 in Concord Township, was presented at this time.

Liz Gunden presented the Staff Report/Staff Analysis, which is attached for review as *Case #23987US Highway 33-140703-1*.

Jim Hartman, 1954 Waterfall Drive, Nappanee, who has been the owner of the property for approximately 30 years, was present. He said the building onsite has seen a variety of uses, including doctor's office and insurance agency, during his period of ownership, and he noted that only about three residences remain along US 33 between Concord Mall and Mishawaka Road (CR 20). He also noted that while the projected GIS view highlighted only the parcel with number ending -352-028, the petition includes the parcel with number ending -352-023, which he purchased from Indiana Michigan Power. The area has been commercial for a long time, and the petition makes official what has been a reality for many years, he said.

James Kolbus asked Brian Mabry whether the petition file contained the complete legal description, covering both parcels at question, and Mr. Mabry said yes, the highlighted area on the projected GIS view was simply not expanded following receipt of the legal for the second parcel. Owners of neighboring properties within the required radius were notified of the complete request, he said.

There were no remonstrators present.

A motion was made and seconded (*Doriot/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** Roger Miller, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from R-4 to B-1 for *23987 US 33, LLC*, be approved in accordance with the Staff Analysis.

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

Yes: Blake Doriot, Frank Lucchese, Roger Miller, Steve Warner, Steven Edwards, Tom Stump.

6. ***Amendment to Exhibit I, Uniform Schedule of Fees, of the Elkhart County Advisory Plan Commission Rules of Procedure***

Approval for application fee increases for special use permits and developmental variances is needed from the Plan Commission, which administers fees for Board of Zoning Appeals cases, Mr. Mabry said. He reminded the Board of the findings summarized on the cost recoupment spreadsheet distributed to the Board in July 2014, restated the recommended fee increases—from \$75 to \$125 for the developmental variance and from \$150 to \$200 for the special use permit—and restated the rationale behind the recommendations. He also recommended that any increases not take effect until August 26, 2014, the day after the upcoming submittal deadline, so that applicants who will submit for the September 2014 meetings are not taken by surprise. Mr. Mabry reminded the Board also that the amendment item is not a public hearing and a vote may be taken without one.

Steve Warner expressed appreciation for the staff's work on the project, which gives a good idea of what the actual costs are, and agreed with the recommendations. Blake Doriot said that he would vote against the amendment. Though "we're in a money pinch," he said, variances and special uses will cause changes to property uses that will result in tax increases and greater participation in the county's economy. Mr. Stump asked Mr. Doriot whether he would rather have the county income tax increased, and Mr. Doriot insisted he would not. Mr. Stump expressed support for the amendment, and Mr. Lucchese said the county has to recover its costs.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Frank Lucchese, that the Advisory Plan Commission approve the request for an amendment to Exhibit I, Uniform Schedule of Fees, of the Elkhart County Advisory Plan Commission Rules of Procedure as submitted.

Vote: Motion passed (**summary:** Yes = 5, No = 1, Abstain = 0).

Yes: Frank Lucchese, Roger Miller, Steve Warner, Steven Edwards, Tom Stump.

No: Blake Doriot.

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

7. Declaratory Resolution and Economic Development Plan: Bristol East Economic Development Area TIF District

Chris Godlewski introduced the request for affirmation of the declaratory resolution and reminded the Board that the Town of Middlebury approached the Board around the beginning of 2013 with a similar request. He called Board attention to the distributed resolution copies and said the Plan Commission has recommended approval of projects in the subject area recently.

Glenn Duncan, 228 W. High Street, Elkhart, attorney for the Town of Bristol, was present on behalf of the request, which is that the Plan Commission approve a declaratory resolution establishing an economic development plan for the Bristol East Economic Development Area, the third and newest such area in Bristol town limits. The toll road forms the North border of the new district, and the East extent of existing development along Commerce Drive forms the West. The area West of the new district comprises one of the existing TIF districts, the North SR 15 TIF District, which extends South beyond the old town limit to the railroad.

The new district is smaller than the North SR 15 TIF District, Commerce Drive now extends to CR 29, and Bristol has now taken jurisdiction of a section of CR 29, included in the new TIF area, between the railroad and the toll road, Mr. Duncan said. Development in the new district will be commercial, and some buildings are already under construction. Manufacturers based in Elkhart County will utilize the subject area, as will those based in other areas.

** It is noted that Mr. Doriot returned to the Board at this time.*

The Bristol Town Council will use 60 percent of generated proceeds to reimburse the developer for costs incurred in the installation of infrastructure, including roads and water and sewer lines, said Mr. Duncan. Indicating the Northwest corner of CR 29 and the railroad, Mr. Duncan added that discussion with the developer also resulted in Bristol's acquisition of five acres of land in the subject area, which is above a good aquifer, for installation of a new well field. The aquifer was tested 30 years ago for a well field installation that never was done, and no new tower is required. The new well field is an alternate water source in case the current well field, which is South of the existing water tower and the railroad and East of SR 15, cannot support the new development, and the utility company that installed the new well field must be reimbursed in the amount of approximately \$200,000. The acreage, Mr. Duncan added, was donated by the developer.

Development already under way, including the new manufacturing building on the East side of CR 29, South of the toll road, for Tubra, LLC, must also be supported, Mr. Duncan said. Railroad siding will need to be installed on at least one side of CR 29, and the siding might need to cross CR 29 if it will be installed on both sides. Costs will be incurred during installation of siding and during any improvement projects for the intersection of CR 29 and the railroad.

Mr. Duncan added that the town would like to install landscaping and sidewalks and a traffic light at the intersection of SR 15 and Commerce Drive, which is seeing an increase in traffic, especially as trucks are not permitted on CR 29, and the TIF district will also support these projects.

Mr. Duncan then explained that the first two TIF districts did not generate much revenue, as they were established in 2008 and have not seen much development. The area now in question, however, will be completely sold out before the new district is even set up. Mr. Duncan then offered to send the finalized form of order to the staff, assuming Plan Commission approval, and Mr.

Godlewski asked by what date he would need the signed order. Mr. Duncan explained the approval process and said he would like to have it as soon as possible. Mr. Kolbus said that the Plan Commission's usual action is approval of a motion confirming the Declaratory Resolution *[attached to minutes as Petitioner Exhibit #1]*.

Mr. Doriot asked for clarification of the location of the TIF district, and Mr. R. Miller and Mr. Kolbus indicated Commerce Drive as forming its South border. Mr. Doriot then asked Mr. Duncan whether he was aware of the Bristol location of the St. Joseph Valley Rifle and Pistol Association, and Mr. Duncan said he was. Mr. Doriot again noted the presence of the existing association location, said that the use of the property is growing, and said that he wants to avoid interference, as the town is expanding East. Mr. Duncan stated recognition of the presence of the association and implied that he saw no interference problems unless a change of owner of the TIF district area occurred.

He went on to say that the toll road-SR 15 interchange has been a magnet for development but that utilities have not been run North of the toll road. He did not know what development would occur immediately South of the toll road, East of CR 29, and did not know what changes might be possible for the intersection of SR 15 and Stoutco Drive, a problematic intersection whose move farther South he hopes will be made possible by funds generated by the TIF district. Semis turning South onto SR 15 from the intersection encounter vehicles moving South very quickly on the overpass, he said.

Mr. R. Miller asked whether the Plan Commission needed to approve the resolution as-is or whether there were any amendments, and Mr. Kolbus said that there will be a document that must be signed by either the Chairman or the Vice Chairman of the Plan Commission and that the motion needed is one to confirm the declaratory resolution.

The Board examined the declaratory resolution, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Steven Edwards, that the Advisory Plan Commission affirm Declaratory Resolution 7-7-14 to Establish the Boundaries and Economic Development Plan for the Bristol East Economic Development Area, and issue a Written Order approving the Declaratory Resolution and Economic Development Plan for the Bristol East Economic Development Area (see attached) pursuant to Indiana Code § 36-7-14-16, with the Chairman or Secretary of the Plan Commission to sign the Written Order upon review by the staff and Board Attorney. The motion was carried with a unanimous vote.

8. ***Jayco West Plant 44: Major/Minor Change to DPUD Site Plan/Support Drawing***

Mr. Mabry distributed to the Board members copies of the Site Plan/Support Drawing dated March 2014 for the Jayco West Phase III DPUD Amendment *[attached to file as Staff Exhibit #1]* and indicated the building marked "Future Phase 3 Facility." He explained that the request is for approval of reconfiguration and increased size of the building and expressed staff concern over the appearance of a truck dock facing a residential area to the South, to which administrative approval could not be given. A significant buffer does separate the proposed building from the residential area, however. The Plan Commission, he said, must decide whether the change can be approved without a formal amendment to the DPUD site plan.

Mr. Stump asked for clarification of the proposed building's location, and Mr. Mabry said it

is on the South end of the subject property. He then distributed to the Board a packet of photos *[attached to file as Petitioner Exhibit #2]* submitted by Jones Petrie Rafinski showing the buffer separating the new building's location from the residential area in question. Mr. R. Miller observed that the size of the dock is minimal, and Mr. Mabry agreed.

Mr. Doriot asked what Jayco's hours of operation are and said he did not believe Jayco uses a double shift at this time. Mr. Mabry did not know, but Matt Schuster, Jones Petrie Rafinski, 4703 Chester Dr., Elkhart, who was present on behalf of the request, said the plant is a one-shift operation. Mr. Doriot asked whether trucks are then expected at the location at night, and Mr. Schuster said no.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Blake Doriot, that the reconfiguration and size increase of the proposed building and the proposed truck dock location appearing on the Site Plan/Support Drawing of the Jayco West Phase III DPUD Amendment be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

9. ***Timberstone Third: Major/Minor Change to Site Plan/Support Drawing***

Mark Kanney distributed and presented to the Board the six-page packet titled "Request for Decision: Major/Minor Change" *[attached to file as Staff Exhibit #2]*. Originally stormwater runoff was shown to be directed and conveyed to a retention area via a pipe in the easement along the property line separating lots 66-O and 66-N. Brads-Ko Engineering & Surveying has since found "an alternative of redirecting the flow in the right-of-way of Timberstone Drive to an outflow point on lot 66-P." This alternative would save piping and eliminate the easement that restricts uses that would cross the property line separating lots 66-O and 66-N. County planning staff and the highway departments of the county and the City of Elkhart support the change, and county planning staff recommends that the change be considered minor.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Roger Miller, that the technical change to the Timberstone Section III DPUD plat described by the document titled "Request for Decision: Major/Minor Change" be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

10. ***Horizon Transport: Major/Minor Change to DPUD***

Mr. Mabry reminded the Board that changes to DPUD site plans cannot be approved administratively. The Plan Commission must determine whether a change is minor, in which case the change may be approved by the Plan Commission at the time of determination, or major, in which case the change must be presented during a formal public hearing.

Horizon Transport, Mr. Mabry said, wants to add to its DPUD at 15655 CR 38, Goshen, a 48 x 40 building for storage of snow removal, lawn care, and other equipment. Mr. Doriot said that he understood the need for Plan Commission approval of the change to Jayco West but that "this one is . . . no biggie," and asked whether staff can be given some guidance that would enable administrative approval of such changes. Mr. R. Miller replied, "This one isn't [a biggie] because of

where it is,” and indicated that other changes do require Plan Commission approval. Mr. Kolbus said that the staff has some discretion but that the recent MOR/ryde lawsuit was the result, among other things, of a change that should have been considered a major change or a Plan Commission–approved minor change. Mr. Mabry stated that the new zoning ordinance will provide criteria for determining whether a change is minor, and Mr. Kolbus said that the criteria will help out a lot.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Roger Miller, that the above-described change to the Horizon Transport DPUD be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

11. *Open House Presentations*

Mr. Godlewski said that the open house meetings concerning the new zoning ordinance will be conducted at the Baugo Township Fire Station, the Wakarusa Town Hall, the Middlebury Town Hall, and the Millersburg Town Hall. He also outlined the schedule of upcoming zoning ordinance reviews and approvals: September 11, 2014, Plan Commission review of module 4; October 9, 2014, Plan Commission review of the consolidated draft, which will contain all changes; November 13, 2014, public hearing during the Plan Commission meeting; and December 15, 2014, Board of County Commissioners meeting. Module 4, an easier module, will see committee reviews in August 2014 and addresses nonconforming uses, enforcement, and definitions.

Mr. Doriot asked whether the marked-up version of the ordinance is online and available for the public to download, and Mr. Mabry said the marked-up versions of modules 1, 2, and 3 are online. The marked-up version of module 4 is not. Mr. Godlewski noted, though, that the public can receive hard copies of these versions in person at the counter.

The press should be invited to one of the next committee meetings, suggested Mr. Doriot. Both major area newspapers and *The Farmer’s Exchange* should be asked to publish “a decent article . . . setting the stage so that everybody knows,” and a local television news station should be invited as well. Mr. Godlewski responded that the next policy committee meeting is August 27, 2014, and that he would make sure the press is invited.

Mr. Kolbus asked Mr. Godlewski whether any Plan Commission members should attend the open house meetings and be available to answer questions. No decisions would be made, and five members could be present under the open-door law. He also asked whether only committee members should be present. Plan Commission and committee members should be present, Mr. Godlewski replied, and asked whether assignments should be made. Plan Commission members who would be willing to attend should say so, he said. Mr. Warner expressed agreement with Mr. Doriot’s statements about communication and asked whether the Planning staff could write a synopsis in layman’s terms concerning the meaning of the zoning ordinance project, as the ordinance is frequently disregarded by homeowners. Mr. Godlewski said that at the beginning of the last ordinance rewrite project such a synopsis was written and notice of the project was given in local newspapers, but while the committee members were familiar with the more monotonous material, homeowners lost sight of it.

Mr. Kolbus said that the policy committee members should be asked to inform the public, and Mr. Doriot told Mr. Godlewski that committee member Dwight Moudy especially should be asked. Mr. Godlewski then clarified for Mr. Kolbus that the policy committee will meet over

module 4 on August 27, 2014, and that the next staff committee meeting is on August 18, 2014. The policy and staff committees will then meet in September 2014 to review the consolidated draft, Mr. Godlewski said, and Mr. Kolbus recommended that the press be invited to the meetings over the consolidated draft, not those over module 4 only, as those are the meetings during which a complete draft will be available and for which much advance notice can be given. Mr. Godlewski indicated agreement.

12. *City of Elkhart Annexations*

Mr. Godlewski described the four current areas of Elkhart annexation, which include an area near the intersection of CR 17 and Verdant Drive, the area of MOR/ryde extending to current city limits and North to the toll road, an industrial area North of the sawmill district, and an area near Elkhart Municipal Airport. The annexations will be effective January 1, 2015, and will include many county Plan Commission–approved developments.

Mr. Doriot asked whether annexation is planned for any area near CR 6, East of CR 15, and Mr. Godlewski said no. Mr. Stump asked whether any of the annexations project into county TIF districts, and Mr. Lucchese said one affected TIF district is that where Bimbo Bakeries is located. Mr. Godlewski agreed and added that the area East of CR 17 near Verdant Drive is probably in a TIF district as well but is undeveloped. As the annexation of that area proceeds, he said, “the TIF increment to the county is greatly hindered and then will eventually go away when it does develop.”

13. A motion to adjourn the meeting was made by Mr. Doriot and seconded by Mr. Lucchese. With a unanimous vote, the meeting was adjourned at 9:52 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman