

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 9<sup>TH</sup> DAY OF JULY 2015 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, Lori Snyder, Steve Warner, Roger Miller, Tom Stump, and Frank Lucchese. Steven Edwards and Blake Doriot were absent. Staff members present were: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Mark Kanney, Planner; Liz Gunden, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Miller/Stump*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 11<sup>th</sup> day of June 2015 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Lucchese/Miller*) 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.

4. The application for a vacation of right-of-way of an east/west alley, for **Zion Community Church, Inc.**, on property comprising an east/west alley between Jackson Street and a north/south alley, 160 ft. north of Lincoln Street, in Clinton Township, zoned R-1, was presented at this time.

Ms. Gunden presented the Staff Report/Staff Analysis, which is attached for review as *Case #0-150526-1*.

Matt Kritzman, 68250 CR 43, Millersburg, was present on behalf of the petitioner and said that the church would like to have natural gas run to it so it can upgrade its furnace to one that uses natural gas instead of fuel oil. Natural gas service to the residence immediately north of the church will be retired, and the residence will be demolished in the future, he said. A 10 ft. service easement that runs across the residence's parcel, south toward the northeast corner of the church parcel, has been surveyed, and a NIPSCO representative said that establishment of the easement was the easiest way to run gas service to the church.

Mr. Miller asked whether the alley is being used, and Mr. Kritzman said no, it is now the church's parking lot.

There were no remonstrators present.

A motion was made and seconded (*Burbrink/Stump*) 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** Jeff Burbrink, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Millersburg Town Council that this request for a vacation of right-of-way of an east/west alley between Jackson Street and a north/south alley for **Zion Community Church, Inc.**, be approved in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

5. The application for a zone map change from B-3 to B-1, for *Ryan Stickler*, on property located on the northeast corner of Jefferson Street and Lincoln Street, common address of 116 W. Jefferson Street in Clinton Township, was presented at this time.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #116WJefferson-150601-1*.

Ryan Stickler, 203 W. Main St., Millersburg, said that he is requesting B-1 so that the subject property can see residential or business use. He said that he is not requesting zoning that allows only residences because the property is in the business area of Millersburg and could see business use again.

Mr. Miller asked whether the property currently features a house with two-stall garage, and Mr. Stickler said yes. Mr. Miller then asked what Mr. Stickler will do with the property now, and Mr. Sticker said that he will sell under land contract and that the house will be used as a residence. He further explained that he bought the property in 2006, converted the structure onsite to a residence, and lived in it for eight years without knowledge of the zone.

There were no remonstrators present.

A motion was made and seconded (*Burbrink/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** Roger Miller, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Millersburg Town Council that this request for a zone map change from B-3 to B-1 for *Ryan Stickler* be approved in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

\* See item 8, page 5, for the application for a zone map change from A-1 to a Detailed Planned Unit Development M-1 to be known as *YODER CONCRETE, LLC, D.P.U.D.*

\* See item 9, page 8, for the applications for a zone map change from a General Planned Unit Development-M-2 to a Detailed Planned Unit Development-M-2 to be known as *BRISTOL PARK FOR INDUSTRY, PHASE 4 DPUD M-2*, and for Secondary approval of a Detailed Planned Unit Development-M-2 known as *BRISTOL PARK FOR INDUSTRY, PHASE 4 DPUD M-2*.

\* See item 10, page 9, for the application for an amendment to the Site Plan / Support Drawing for an existing Detailed Planned Unit Development known as *MARTIN ANIMAL BEDDING D.P.U.D.*

\* See item 11, page 11, for the application for a zone map change from Detailed Planned Unit Development M-2 to Detailed Planned Unit Development B-3 and General Planned Unit Development M-2 to be known as *ECO PARK PLANNED UNIT DEVELOPMENT 1ST AMENDMENT*.

## 6. *2016 Plan Commission Budget*

Mr. Godlewski at this time called attention to the 2016 budget estimate, noting first that the salary total reflects a 3 percent increase. The increase is budgeted, but a final decision will not be made until September 2015. He noted also that the increase is only given when staff members receive positive performance reviews and that the staff comprises seven employees. The entry titled Professional Part Time will cover an intern, an IUSB student, who will work from fall 2015 through spring 2016. The amount shown, \$5,500, is a maximum amount and is similar to the 2015 amount.

The only office-supply figure that went up was the copy machine supplies figure. The marginal \$500 increase covers color copying costs, Mr. Godlewski said. Moving to the professional services heading, he said that a 3 percent increase has also been budgeted for Mr. Kolbus and that the entry titled Other Prof. Services covers Craig Buche's Redevelopment Commission work. TIF money is paid to the county, and Mr. Buche is paid through the Plan Commission budget, Mr. Godlewski explained. Thus Mr. Buche is indirectly paid using TIF money, he said. Mr. Stump asked whether Mr. Buche's pay is sourced elsewhere, and Mr. Godlewski confirmed that his pay is all through the Plan Commission account. He clarified also for Mr. Stump that the \$72,700 figure covers Mr. Kolbus's services and the remainder of Mr. Buche's services. The cost of Mr. Kolbus's services is approximately \$7,800, he said.

Mr. Godlewski then said that the sustenance-and-other-travel budget was increased because of anticipated additional travel costs and that the postage budget was increased because of a neighbor notification volume increase. Mr. Miller asked why the mileage figure is so low, and Mr. Godlewski said that traveling employees use county vehicles, not their own cars, and thus do not usually claim mileage. The telephone figure, which might have increased slightly, covers the cost of several employee cell phones.

Figures under the titles of Printing and Advertising and Repairs and Maintenance are unchanged, and the rental figure covers the cost of the postage machine, which is rented. The total budget for nearly all items under Other Services and Charges increased by approximately \$1,000. This portion of the budget allows the staff to "stay active" through education and conference attendance, Mr. Godlewski explained. The refund figure, which has to do with the credit card machine, went down, and Mr. Godlewski commented that the department will have a new credit card machine and will have customers pay credit card costs. Other county agencies already assess a credit card fee, and the planning department will assess credit card fees equal to 2.99 percent of permit costs. Refunds have been budgeted for, however, and refunds are due in cases of application withdrawal, for example.

Mr. Miller asked whether Planning purchased a new copier recently. Mr. Godlewski said that the new copier, purchased approximately two years ago, was a capital item purchase made by the commissioners, not the planning department.

Disregarding the salary increase, the total budget increased by 1 or 2 percent, and Mr. Godlewski described the total budget increase as the cost of doing business. He added that while revenue has gone up every year over the past seven years, the budget has increased at a slower rate than that of revenue increase. The difference between the rates results in a healthy budget, he said.

Ms. Snyder then brought up the 2015 change to electrical permit fees. An updated building fee ordinance reflecting planning department-recommended recategorization of electrical permit fees has been approved by the commissioners, Mr. Godlewski said. Before the update, only one flat

electrical permit fee was charged, whether the electrical work to be done was in a new home or a large manufacturing facility. Now, the more panels, the higher the fee. This categorization of fees is similar to Elkhart and Goshen practice, though Elkhart County's costs are slightly lower than those of Elkhart and Goshen.

Mr. Burbrink observed the change from \$0 to \$100,000 in the Other Fees row of the 2016 estimated-revenue sheet. Mr. Godlewski answered that \$100,000 is the amount from the TIF paid to the general fund in the first half of every year. Because the form is confusing and revenue estimation is difficult, the form is left the same year after year. Revenue is left the same to avoid overestimation.

The Board examined the 2016 Plan Commission budget, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Tom Stump, **Seconded by** Frank Lucchese, that the Advisory Plan Commission approve the 2016 Plan Commission budget as proposed by staff.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

#### 7. *Funneling*

Mr. Warner asked to be caught up on recent funneling discussion. Mr. Kolbus noted that a funneling committee would meet today at 11:00 a.m. Mr. Godlewski mentioned that Mr. Auvil reviewed three funneling approaches for use in zoning ordinances during the June 2015 Plan Commission meeting, and he mentioned also the determination that a funneling committee that could work through the issues should be formed. Mr. Miller repeated that though he had feelings on the matter, he had no personal experience with it, and said that those who do have such experience should be gathered.

Mr. Miller then asked Ms. Snyder whether any committee formation progress had been made, and Ms. Snyder said that she had member candidates in mind whom she would call after today's committee meeting, during which she would learn what amount of commitment would be asked of them. Mr. Godlewski said that Dave Foutz, Simonton Lake Area Homeowners' Association, and the president of the Indiana Lake Association would attend today's meeting, and he clarified for Ms. Snyder that while a meeting was planned for today, the committee has not been formed. Others can join. He added, however, that if today's discussion is easy and results in a solution, the committee might not need to go on.

Those interested in the water and those interested in building should participate so that more than one side is represented, said Mr. Miller, and Mr. Godlewski indicated agreement. Indiana statutes provide that all lakes are public unless deemed private, observed Mr. Campanello, and Mr. Godlewski said that water regulations and public right-of-way have nothing to do with the planning department.

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

Mr. Campanello said that associations do not like funneling, but Mr. Godlewski said that developers might like it. This conflict is what committee discussion will start with, Mr. Godlewski

said. Mr. Campanello then suggested that Ms. Snyder consider asking John K. Letherman to participate.

Mr. Warner stated that some degree of sensible protection for everyone is needed, as the lakes are everyone's, but that protection from individuals and single developers standing to benefit from everyone's lakes is also needed.

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

Mr. Godlewski noted that funneling might in fact need to be addressed through redevelopment, as lake frontage is mostly occupied by houses; open lots on lakes are rare. Past discussion resulted in agreement that such lots in Elkhart County should be identified, whether there are several or only one or two, said Ms. Snyder. She asked whether Mr. Godlewski thought it would be easy to identify such lots, but Mr. Godlewski did not know. The county's GIS coordinator would probably have to take on such a task, he said.

Mr. Miller related the instance of a sale of a Michigan lakefront lot to the owner of a condominium complex across the street from it. The new owner then tore down the house on the lakefront lot and added a park and ramp, and suddenly 150 more people had lake access. Uproar ensued. Mr. Campanello then repeated interest in reading the minutes for the hearings during which approval of the Heaton Lake water park, which he called a monstrosity, was given. He wanted to know who sold the water park property and how the City of Elkhart acquired it, and did not want such an approval to happen again. The Heaton Lake water park site is one of the few lakefront sites left in the county that could see condominium development, commented Ms. Snyder.

Mr. Stump posited, however, that the water park site might have enough frontage and that such a use, with appropriate frontage and zoning, should not be limited. The site might not be a bad one for condos either, he suggested, but frontage minimums for the mentioned types of development must be determined. Mr. Godlewski responded by mentioning the ratio approach to frontage, discussed during the June 2015 Plan Commission meeting, which serves as "middle ground," both allowing and prohibiting funneling.

8. The application for a zone map change from A-1 to a Detailed Planned Unit Development M-1 to be known as **YODER CONCRETE, LLC, D.P.U.D.** for Larry J. & Linda Sue Yoder represented by Brads-Ko Engineering & Surveying, Inc., on property located on the west side of SR 13, 2,800 ft. north of CR 38, common address of 64455 SR 13 in Clinton Township, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #64455SR 13-150330-1*.

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth St., Goshen, who was present on behalf of the petitioners, began by saying that when Mr. Yoder looked at the site for purchase, it was loaded with parked semi trucks and trailers. He then emphasized that Yoder Concrete, a contractor, does not make or haul concrete but sets up forms for and finishes onsite concrete poured by manufacturers.

The subject site, which will contain the business, said Mr. Pharis, features an existing building that will house the office and will be the night and weekend site of company vehicle storage. Forms are currently stored in an area at the rear. Employees park at the front at morning,

use company vehicles to visit sites, return the company vehicles, and leave in their own vehicles at night.

Among DPUD provisions are restroom and field septic system installation and sealing of the existing septic tank, which is in the building for an unknown reason, continued Mr. Pharis. Also among provisions are a retention/detention area at north that will handle water that comes off the pavement and roof and west-side plantings that will screen outside form storage. The petitioners also hope to add another building for inside storage as the business grows, he said, and he will be obtaining information for an INDOT curb cut so that the petitioners have adequate access to SR 13. He also stated acquiescence to the four staff-recommended conditions.

Mr. Burbrink asked when Mr. Yoder purchased the subject property, and Mr. Yoder, 13520 CR 36, Goshen, who was also present, said three years ago. Mr. Pharis added that at the time, Mr. Yoder was advised that his exact intent was legal. Mr. Pharis's research and visit with the staff, following Mr. Yoder's contact with Mr. Pharis last year, revealed that it was not legal without a PUD, however.

Mr. Warner asked whether the site features adequate interior semi access. Mr. Pharis responded that the petitioner, who uses pickup and box trucks, has no semis but that the site must feature such access as semis were there previously. He reemphasized that the company does not haul concrete but uses the trucks described above to move employees and equipment to sites to form concrete.

Ms. Snyder asked Mr. Pharis to indicate proposed and existing buildings, and Mr. Pharis indicated those appearing on the site plan / support drawing, including the existing 7,838 sq. ft. one, and mentioned that the proposed building at southwest will be "up to" 8,000 sq. ft. in area. Ms. Snyder then said, "In the verbiage it says that the future would maybe add an additional 19, or are you just combining those two?" and Mr. Pharis replied, "Combining those two."

Mr. Campanello asked what uses a future owner of the subject property will be limited to, and Mr. Pharis said that a future owner will need to present a plan to the staff or the Plan Commission for approval. He said that Mr. Yoder cannot simply sell and allow semis to reappear on the property.

Mr. Miller commented that the projected GIS image of the property showed it cleaner than he had seen it in a long time and that approval of the petition would constitute a major improvement of the property. Mr. Pharis replied, however, that he has been by the property approximately five times and it has always looked nice. Mr. Pharis then said, in response to a question from Ms. Snyder, that he has not been notified of any complaints during the petitioners' three years of ownership.

Danny Fry, 64349 SR 13, Goshen, whose home is approximately 500 ft. north of the subject property, on the north side of the pond that lies north of subject piece, wished he had been approached "before this" and said he found out about the petitioners' intent through other people. He asserted that he was not supposed to find out about the petition and called this unneighborly, and he heard that the petitioner was to bring "another partial manufacturing" onto the property, which he did not want.

He then explained that during his ownership of the subject property he rented it to occupants who were responsible for its poor appearance. He then told those occupants to leave and sold the property to Mr. Yoder, who he knew would take care of it, does good work, and keeps everything clean. Though he expressed gladness over the growth of the petitioners' business, he said he told

Mr. Yoder he did not want him to build anything “back there.” His main concern, he said, was that he did not want another business on the property, and he concluded by asking what is intended and why he was not notified of the petitioners’ intent.

Mr. Godlewski then confirmed that Mr. Fry was notified of today’s hearing. Mr. Fry agreed that he had been notified by letter and said that he heard “it was brought before already and it got knocked down.” He was not notified until “this letter” came out, he said.

Mr. Fry then confirmed for Mr. Stump that he is the former owner of the subject property. He added that he bought it in 2008 and agreed that it was dirty at that time. When renters occupied the property, “we had the same deal about parking stuff inside,” and the renters wrecked the building. He then added proximity of a business to his residence among his concerns.

Mr. Stump indicated staff-recommended condition 3 and the fencing noted and drawn on the site plan / support drawing, and Mr. Miller noted that no production will be going on.

This DPUD is for Yoder Concrete only and is subject to the four staff-recommended conditions, replied Mr. Pharis, who did not know how a rumor that some other business would be present got started. Mr. Yoder’s intent is only to settle and grow his business and be legal, Mr. Pharis said. Mr. Campanello asked whether any premanufactured items would be produced onsite, and Mr. Pharis said no, Yoder Concrete employees go to sites where concrete has been poured, spread concrete, put forms up, and take them away. The building will see no manufacture or retail sales, he confirmed, and any changes to the use of the property would be subject to staff or Plan Commission approval. Mr. Pharis thought that the conditions Mr. Fry asked for, including occupancy of the subject property by Mr. Yoder’s business, were met.

Indicating an area at the southwest corner of the property, behind the existing building and not visible from SR 13, Mr. Pharis then clarified for Mr. Campanello the location of the outside storage area. No storage is possible at the northwest corner, where the field septic systems will be. He also indicated an area of plantings on the north side of the property and added, indicating the northwest corner, “There probably should be plantings there to protect us from that neighbor as well.” The plantings will be of something like arborvitae, which is green, is hardy, and grows big, he said.

Ms. Snyder asked whether the plantings will appear across the whole north side of the lot. Mr. Pharis indicated an area along the east half of the north property line where, he said, plantings would not be a good idea, but indicated willingness to plant along the west half of the north property line and down the west property line. “And probably a good idea along this south line as well to do some plantings,” he also said, agreeing with Mr. Campanello’s mention that the plantings will offer snow protection.

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

The remonstrator’s questions are addressed by the staff-recommended conditions, noted Mr. Miller, who thought that the proposed use, a property improvement, would not generate noise or dust. He expressed concern, however, over use of the driveway, which is “one side,” by semi drivers, who have made whatever path they needed. But INDOT project approval will result in some driveway upgrade, he said. The Board then confirmed that the property will receive no semis.

Ms. Snyder, who did not note any nearby M-1 zoning, expressed concern over the introduction of an M-1 zone to a large A-1 area, but Mr. Campanello mentioned the requirement that changes to the use of the property receive planning department or Plan Commission approval.

Mr. Miller's response to Ms. Snyder was that "that's our problem for allowing businesses to get started out in the middle of the country." Mr. Stump observed, though, that the subject property is on a state highway and recalled that its history began when a former owner of property north of the subject property built the building onsite for his business.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **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 A-1 to a Detailed Planned Unit Development M-1 to be known as ***YODER CONCRETE, LLC, D.P.U.D.*** be approved in accordance with the Staff Analysis with the following conditions:

1. That the permitted uses be limited by the petitioner to storage and the operation of a concrete finishing business.
2. That the septic system be installed in accordance with the Health Department requirements.
3. That all outside storage of product or equipment is buffered from view with vegetative barriers.
4. And that the existing driveway on SR 13 be authorized for business usage by INDOT.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

9. The applications for a zone map change from a General Planned Unit Development-M-2 to a Detailed Planned Unit Development-M-2 to be known as ***BRISTOL PARK FOR INDUSTRY, PHASE 4 DPUD M-2***, and for Secondary approval of a Detailed Planned Unit Development-M-2 known as ***BRISTOL PARK FOR INDUSTRY, PHASE 4 DPUD M-2***, for Universal Trailer of Indiana, LLC, represented by Marbach, Brady & Weaver, Inc., on property located on the southwest corner of CR 4 and CR 29, common address of 52395 CR 29 in Washington Township, were presented at this time.

Mr. Kanney presented the Staff Reports/Staff Analyses, which are attached for review as *Case #52395CR 29-150601-1* and *Case #52395CR 29-150601-2*.

Chris Marbach, Marbach, Brady & Weaver, Inc., 3220 Southview Dr., Elkhart, who was present on behalf of the petitioner, began by noting the subject property's proximity to other Bristol Park properties that have been sold or are almost sold. He noted also that Wagner Land Development has completed annexation of the subject parcel and that the Town of Bristol should record the annexation the week of today's hearing. An agreement to extension of sewer and water from Commerce Drive north to CR 4, a town request, is part of the annexation, and the extension is under design and review.

Universal Trailer, a family of several brands, will ultimately construct a building 408,000 sq. ft., or almost nine acres, in area, continued Mr. Marbach. Though phase 1 was originally expected to be a 158,000 sq. ft. building, Universal Trailer now expects phase 1 to be a building up to 280,000 sq. ft. in area. Phase 1 will be within the footprint shown on the site plan / support drawing, however, and at project completion the facility will have over 200 employees.

The grading plan, the storm sewer, and the drainage system have all been designed as if the entire building were built, retention is sized accordingly, and Universal Trailer will make all drainage improvements during phase 1 construction, Mr. Marbach then noted. The drainage



improvements will be made as described regardless of the phase 1 building size that is determined. No site or pond amendments will be necessary, then.

Mr. Marbach then said that the new facility will use proprietary automation techniques and will not require outside storage of raw or in-process materials. All that will be seen outside are employee cars and finished product. He concluded by underscoring the Bristol Town Board's interest in moving the project forward.

Mr. Miller asked whether the subject site has always been the proposed Bristol Park phase 4 site, and Mr. Marbach said it has. Mr. Miller asked whether Universal Trailer presently has CR 4 sites, and Mr. Marbach said it does, farther east. The company, which is spread out, also has downtown Elkhart sites.

Mr. Burbrink then said that if Mr. Doriot were present, he would indicate the Bristol location of the St. Joseph Valley Rifle & Pistol Association, an existing, noise-generating nearby use with address of 16067 SR 120.

There were no remonstrators present.

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

Mr. Miller observed that the subject site, which is highly accessible, is an ideal location for the proposed use. He mentioned the extension of water and sewer and thanked Mr. Marbach for the decision to design drainage as if the entire proposed facility were built. Mr. Stump also noted that the proposed use is a perfect fit for the subject site.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Lori Snyder, that the Advisory Plan Commission recommend to the Bristol Town Board that this request for a zone map change from a General Planned Unit Development-M-2 to a Detailed Planned Unit Development-M-2 to be known as ***BRISTOL PARK FOR INDUSTRY, PHASE 4 DPUD M-2***, be approved in accordance with the site plan, support plans, narrative reports, GPUD ordinance #2015-06, and Bristol annexation ordinances.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Frank Lucchese, that the Advisory Plan Commission approve this request for Secondary approval of a Detailed Planned Unit Development-M-2 known as ***BRISTOL PARK FOR INDUSTRY, PHASE 4 DPUD M-2***, in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

10. The application for an amendment to the Site Plan / Support Drawing for an existing Detailed Planned Unit Development known as ***MARTIN ANIMAL BEDDING D.P.U.D.***, for Kevin R. & Rachel F. Martin represented by Brads-Ko Engineering & Surveying, Inc., on property located on the east side of CR 17, 2,200 ft. south of CR 38, common address of 65468 CR 17 in Elkhart Township, zoned DPUD A-1, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case*

*#65468CR 17-150601-1.*

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth St., Goshen, was present on behalf of the petitioners. Since 2013 DPUD approval and the company's move from a SR 19 location to its present location, the company has become the largest grinding and bedding operation in the county, began Mr. Pharis. Soil Solutions is winding down, and there are two other grinding operations that are not operational. Local dairy farmers are Martin Animal Bedding's most significant clients, but farms in other states are now seeking the company's product.

Growth of the RV market has generated an enormous amount of raw material that is useful to the company but is otherwise waste, continued Mr. Pharis, and anything Martin Animal Bedding cannot accept typically goes to the landfill. The company's CR 17 location, between CRs 38 and 40, which are receiving improvements, is ideal for receipt of material from manufacturers in surrounding cities and towns.

Mr. Pharis then indicated the locations of the existing grinding building and the adjacent material-staging area. The proposed hoop building at north center will be used for storage of A wood, and the proposed larger building at east will be used for storage of B wood. The company does not accept C wood, he said. Bedding, which dairy operations do not need during summer, is a critical material for such operations during winter and early spring. Raw material is most available to the company during the months when its product is not needed; thus the company has massive storage requirements.

The residence closest to the subject property, disregarding the residence onsite, which is occupied by Mr. Martin's father, is over 1,000 ft. away, Mr. Pharis then said. Very large trees stand at the east and north sides of the property; wind at the site is predominately west, southwest, and south; and the site sits in a "bowl." Dust issues are therefore controlled.

Focusing on access, Mr. Pharis noted that a portion of the west side of the subject property has already been dedicated to Elkhart County for future expansion of CR 17, and if CR 17 ever becomes a restricted-access four-lane road, the company's CR 17 entrance will be closed and the subject property will instead access CR 38, via an easement along the west side of parcel 11-30-100-012.

Mr. Pharis then demonstrated at Mr. Stump's request the location of the referenced easement, a platted easement on property owned by a cousin of Mr. Martin. Returning to the subject of nearby residences, he mentioned that the county owns the residence with address of 21968 CR 38 and that the occupants of the residence with address of 21774 CR 38 are aware of the presence of Martin Animal Bedding.

Mr. Stump asked whether the road providing CR 38 access in the event of CR 17's inaccessibility would have to be paved, and Mr. Pharis said that it would have to be paved and it would have to meet highway department standards for a CR 38 entrance.

Mr. Miller asked whether the property had any fire history, and Mr. Pharis said, "Not at this location." Mr. Miller then asked whether there were any fire provisions, and Mr. Pharis said that the existing building at center has an area housing two large water-storage tanks with hoses capable of reaching the site of the proposed east building. The petitioners are not concerned about the proposed hoop building at north, which will have 8 ft. concrete walls. Grinding is the operation that can cause fire, not storage, mentioned Mr. Pharis. A bedding fire would have to be intentionally started, he said. The site, which will store only ground product, will be sprinkled, however, and he guessed that sprinkling was a state requirement. Mr. Pharis said also that the petitioners now use an electric

grinder, “which has less issue with . . . fire.” The cause of fire at a previous site was “related to diesel as opposed to the machine itself.”

Mr. Lucchese, who toured the facility July 8, 2015, returned to the subject of the site’s bowl shape, noting that the grinding area, which is completely surrounded by trees, is so low that an observer cannot see CR 17 from it. He expressed amazement over the amount of dust present, which is minimal, and said that dust that floats from the open rear of the existing building hits the trees, if it makes it that far. He had no objections to the proposal, especially as the stored product is finished. The operation is a busy one, he said, adding that the wood should be kept out of the landfill.

Mr. Miller added that a White Pigeon, Michigan, business similar to the petitioners’, near Mr. Miller’s place of work, had initial dust problems that were solved by installation of reclaiming equipment.

Mr. Kolbus mentioned that complaints against businesses like the petitioners’ have to do with outside storage. Mr. Lucchese responded noting that all the petitioners’ storage will be enclosed, and Mr. Pharis responded noting that quality animal bedding must remain dry. Mr. Miller asked Mr. Pharis to confirm that the petition is essentially a request for permission to add more storage, and Mr. Pharis said yes, storage of ground, finished material.

There were no remonstrators present.

A motion was made and seconded (*Miller/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** Frank Lucchese, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an amendment to the Site Plan / Support Drawing for an existing Detailed Planned Unit Development known as **MARTIN ANIMAL BEDDING D.P.U.D.** be approved provided the terms and conditions of PC 2013-03 remain effective.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

11. The application for a zone map change from Detailed Planned Unit Development M-2 to Detailed Planned Unit Development B-3 and General Planned Unit Development M-2 to be known as **ECO PARK PLANNED UNIT DEVELOPMENT 1ST AMENDMENT**, for Elm Properties represented by Jones Petrie Rafinski, on property located on the north side of CR 26, 1,000 ft. east of SR 19, common address of 27919 CR 26 in Concord Township, was presented at this time.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #27919CR 26-150601-1*.

Ken Jones, Jones Petrie Rafinski, 4703 Chester Dr., Elkhart, was present on behalf of the petitioner. He said first that the PUD that is the subject of today’s petition is the one approved November 21, 2011. He further explained that at the time of that approval, Waste-Away Group planned to place a new maintenance facility on adjacent property and move its corporate offices into the existing building near the northeast corner of CR 26 and SR 19. Following 2011 approval and building analysis, the company determined that the building was not suitable for its corporate offices, and Waste-Away Group, which is part of Elm Properties, has since been marketing the

building. The company also determined it would not place a new maintenance facility on adjacent property and elected instead to repurpose existing facilities.

Mr. Jones went on to say that Elm Properties does have future plans for the site that was to contain a new Waste-Away maintenance facility, and does not want to move backwards from the M-2 designation. He commented also that under the previous zoning ordinance, today's petition would be unnecessary; the uses sought today now require B-3 zoning. Today's proposal, then, is that the property with parcel number 06-30-376-012 revert to GPUD M-2 and that the property with parcel number 06-30-376-009 be zoned DPUD B-3, Mr. Jones concluded.

The existing building will house American Countryside Farmers' Market, a retail, auction, restaurant, and community meeting destination, said John Libby, president of American Countryside Farmers' Market, LLC, 2510 Sterling Ave., Elkhart. The market will acquire merchandise from large Internet retailers including Amazon at a low cost; the second floor of the building will be a retail department store containing 41 departments; and the building will feature separate stores offering computers and electronics, Amish quilts, perfumes, and guns. Another feature of the building will be a teaching kitchen. Busloads of people interested in learning how to cook Hispanic, Asian, and Amish foods are expected.

Mr. Libby then said that the first floor of the building will contain six restaurant stalls. Among stall occupants will be Salsa Grille, All-American Hot Dogs and Hamburgers, a restaurant similar to Panda Express, a soul food restaurant, and a restaurant similar to Starbucks. Also to appear are an Amish bakery, a candy shop, and a snack shop. A principal difference between the building use proposed previously and that proposed now is that the property owner will control all but six of the building's stalls, whereas over 200 separate renters were anticipated earlier.

A stage for lectures, music, community performances, and auctions, which Mr. Libby hoped would be used every day the site is open, has been added to the expansive first floor; the east side of the building has been turned into an auction warehouse; and the west side of the building is a 400-seat dining area that will serve the restaurants. The building's third floor will "accommodate a unique eBay operation that will eBay the merchandise" brought in.

All that has been described will occur under one roof, Mr. Libby then said, but seasonal parking lot produce vending is also planned.

Mr. Libby mentioned also that the project as described was undertaken assuming the subject property's zoning was appropriate. Though the company is still readying to begin—people are there every day—he apologized and indicated that he did not know until recently that the company needed to approach the Plan Commission before opening.

Mr. Warner asked Mr. Libby to say a timetable, and Mr. Libby said that the market would open within 30 days of project approval. "There were certificates of occupancy that indicated almost a month between the time that you gave last retail approval and the time that they could actually open up," he said. Restaurant inspections are still needed, and the company hopes to open August 2015.

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

Mr. Campanello, Mr. Stump, and Mr. Warner all expressed support for the petition following Mr. Libby's remarks, with Mr. Campanello relating a good experience of his own patronage at the site. Mr. Libby responded saying that everybody involved in the project loves the

building and what it means to the community. The new use of the building, which will be closed Sundays, will be community oriented, he said.

There were no remonstrators present.

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

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

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from Detailed Planned Unit Development M-2 to Detailed Planned Unit Development B-3 and General Planned Unit Development M-2 to be known as ***ECO PARK PLANNED UNIT DEVELOPMENT 1ST AMENDMENT*** be approved in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

## 12. *Discussion of New State Statutes Concerning Plat Approvals*

Through June 30, 2015, Indiana law provided that when improvements have not been installed and inspected, a Secondary plat cannot be approved unless there is a bond or other surety, began Mr. Kolbus. Either the improvements are in or you get a bond, he summarized. A new law, House Enrolled Act 1508, effective July 1, 2015, states that a local unit of government may not adopt or enforce an ordinance or other policy requiring a developer of a class 1 or class 2 structure—that is, almost any structure—to provide surety prior to Secondary approval. Surety can, however, be required before recordation of a Secondary plat. Bonds cannot be required prior to Secondary approval but can be required prior to the plat's actual recordation, Mr. Kolbus summarized. "It moves that time frame from one to the other," he restated.

Thus the county's subdivision control ordinance needs to be changed, in accordance with the change to state law, as surety can no longer be required as a condition of Secondary approval, Mr. Kolbus continued. An e-mail sent to the Plan Commission members contains an attachment enumerating proposed text amendments that provide that surety be required prior to Secondary plat recordation, not Secondary plat approval, said Mr. Kolbus, and action needed today is the Plan Commission's authorization to advertise the amendments and set them as an agenda item for the August 2015 Plan Commission hearing.

Seeking clarification, Mr. Campanello asked whether a developer can now start construction without a bond and without Secondary plat approval, and Mr. Kolbus answered that construction is not at issue. Instead the developer now does not have to go to the expense of getting a bond until that developer knows Secondary approval has been gotten, and upon plat recordation, the developer gets permits.

Mr. Kolbus then added that if improvements are installed and a bond has been given, the county commissioners can sign prior to Secondary approval. This allows a developer to voluntarily give a bond up front, which can save the developer time. If the developer waits until after Secondary

approval is given, then the highway department's involvement could delay development. Mr. Kolbus then assured Mr. Lucchese that Craig Buche is making the appropriate changes to the street standards so that those standards and the subdivision control ordinance agree. "It's all in the street standards," to which the Plan Commission often defers; this is why there are so few changes to the subdivision control ordinance.

Mr. Burbrink asked how processes for subdivisions in towns like Bristol are affected. Mr. Kolbus said that even if surety or bonds are given to one of the towns, the process is the same. He was not sure, however, whether the county's highway department performs street review in the towns, and Mr. Godlewski clarified that while the towns do have different methods of receipt and processing, as well as their own engineers who perform review, the changes described above still apply. A plat cannot be recorded until surety is given, no matter what entity receives it, Mr. Kolbus then said.

The Board examined the matter as described above, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Tom Stump, **Seconded by** Jeff Burbrink, that the Advisory Plan Commission allow staff to advertise changes to the Subdivision Control Ordinance because of the change in state law. The motion was carried with a unanimous vote.

Mr. Kolbus then submitted a one-page document, the e-mail attachment referenced above, highlighting changes to the subdivision control ordinance *[attached to minutes as Staff Exhibit #1]*.

13. A motion to adjourn the meeting was made by Mr. Lucchese and seconded by Mr. Miller. With a unanimous vote, the meeting was adjourned at 10:46 a.m.

Respectfully submitted,

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Daniel Dean, Recording Secretary

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Steve Warner, Chairman