

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 11<sup>TH</sup> DAY OF JUNE 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 Vice Chairman, Roger Miller, with the following members present: Tony Campanello, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Edwards, Tom Stump, Frank Lucchese, and Blake Doriot. Steve Warner was 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 (*Doriot/Edwards*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 14<sup>th</sup> day of May 2015 be approved as submitted and the motion was carried unanimously.

3. 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.

4. The application for Primary approval of a five-lot major subdivision to be known as ***SUBURBAN WOODS, A REPLAT OF LOTS 10 AND 11 IN MAPLE GROVE AND PART OF OUTLOT "D" IN SUBURBAN ESTATES II***, for Patrick & Kristie Rosenogle, Dan & Leann Gregory, Jon & Connie Hart, and Joseph Bonacorsi represented by Progressive Engineering, Inc., on property located on the east side of CR 109 (Maple Grove Avenue) and west side of Forest Road, 275 ft. south of Baker Street, north of CR 4, common address of 51412 CR 109 in Osolo Township, zoned R-2, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #51412CR 109-150504-1*.

Brad Cramer, Progressive Engineering, Inc., 58640 SR 15, Goshen, was present on behalf of the petitioners. A group of four families who live east of the subject property, across the street from it, purchased it to curtail future home building, he said. They now want to separate the property so that each homeowner can receive a parcel. Included on the plat is a five ft. spike strip, a feature of the east lots of the original subdivision and part of which is owned by the petitioners. A portion of the strip not owned by the petitioners is shown on the plat at southeast.

The petitioners intend to place accessory buildings on the lots, Mr. Cramer concluded.

Mr. Miller asked whether sewer was present, and Mr. Cramer called attention to the path of the force main drawn on the plat.

Nate Roll, 220 E. Bristol St., Elkhart, owns the parcel at the northeast corner of the subject property and expressed support for development and the current petition. Stating understanding that the petitioners acquired the property to prevent its future development, he asked whether the new lots will be individually owned and then guessed that they would be, as the owners also own property across the street from the subject property.

No answer to Mr. Roll's question was offered.

There were no remonstrators present.

A motion was made and seconded (*Doriot/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** Blake Doriot, **Seconded by** Tom Stump, that the Advisory Plan Commission approve this request for Primary approval of a five-lot major subdivision to be known as ***SUBURBAN WOODS, A REPLAT OF LOTS 10 AND 11 IN MAPLE GROVE AND PART OF OUTLOT "D" IN SUBURBAN ESTATES II***, in accordance with the Staff Analysis.

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

**Yes:** Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steven Edwards, Tom Stump, Tony Campanello.

#### 5. *D & N Properties, LLC—Review and Approval of Written Commitment*

Mr. Auvil at this time solicited approval and signature of the commitment form prepared for the above petitioner following May 2015 Plan Commission recommendation of rezoning approval and included in the Commissioners' packets.

Mr. Kolbus recommended that authorization of Mr. Miller's signature, in Mr. Warner's absence, be included in any motion to approve so that signature and approval could be obtained immediately.

The Board examined the commitment form, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Frank Lucchese, **Seconded by** Steven Edwards, that the Advisory Plan Commission approve the commitment form prepared for D & N Properties, LLC, and authorize its signature by Mr. Miller, Vice Chairman. The motion was carried with a unanimous vote.

#### 6. *Funneling—Continued Discussion*

Funneling, or keyhole development, allows a lakefront lot to provide lake access to occupants of properties away from the lake, recapped Mr. Auvil. Communities use a variety of regulations to limit or prohibit this type of development, and zoning ordinances can be used to provide for limitation and prohibition. One regulation used is the requirement that a lakefront lot's lake frontage be equal to its minimum required road frontage. Another regulation used is limitation on the depth of flag lots. The recent change to the maximum depth-to-width ratio, from 3:1 to 7:1, reflected in the new zoning ordinance, does not need to be readdressed, however, said Mr. Auvil, as a return to a more restrictive ratio would be a major inconvenience to the many owners of large county parcels.

A third regulation option, used by LaGrange County and Kosciusko County, bases minimum funnel lot water frontage on the number of off-lake lots funneling to the lakefront lot. In the mentioned counties, a funnel lot serving a single off-lake lot must have at least 100 ft. of frontage, a funnel lot serving two off-lake lots must have at least 150 ft. of frontage, and a funnel lot serving more than two off-lake lots must have at least 150 ft. of frontage, for the first two off-lake lots served, plus 25 more ft. for each additional off-lake lot served.

Mr. Miller asked whether anyone present had experience working on the issue, and Ms.

Snyder replied that the owners of lakefront property whom she contacted said that they are not in favor of prohibition, which did not make sense to them as lakes should be accessible to many, but are also not in favor of a lax approach. They favored a “happy medium,” which, Ms. Snyder said, could be achieved through mathematical approaches like the ones cited above, which many different people can understand.

*\* It is noted that Mr. Doriot was not present for the beginning of this discussion but returned to the Board at this time.*

Mr. Kolbus reminded the Board that it may form a committee to investigate the issue, which can comprise Board members, staff members, and laypeople. Ms. Snyder and Mr. Miller agreed that a committee should be formed, and Mr. Miller added that it should comprise people who are involved in and have a stake in the issue.

Mr. Auvil then added that funneling problems are more pressing in places like Watervliet, Michigan, where there is intense waterfront condominium development. He said also that he was unable to acquire a copy of Watervliet’s zoning ordinance, which does contain funneling restraint provisions, but mentioned that while waterfront condominium development is dense, 50 or 60 percent of units might be occupied by vacationers only two or three weeks per year. The exact kind of waterfront development in Elkhart County to be seen in the future is uncertain, said Mr. Auvil.

Water body size should affect regulation, suggested Mr. Miller. Consideration of large reservoirs should be different from consideration of small lakes, where condominium development would be unfavorable, he said.

Ms. Snyder asked what IDNR’s interests are, and the Board responded that they include pier and seawall construction but could not agree on whether they include boat access. Mr. Doriot then said that IDNR, IDEM, and the Army Corps of Engineers all have interest in seawall construction and added that he had a problem with owners of property on state-owned lakes making those lakes into private ones.

Mr. Campanello expressed interest in reading the minutes for the hearing during which the Heaton Lake water park proposal was considered. He described the project, to which many owners of Heaton Lake lakefront property objected, as the epitome of funneling. Mr. Stump pointed out, however, that the park property has much lake frontage. Ms. Snyder said that the Heaton Lake water park property was the only property she could think of that could soon be repurposed for multitenant development, but Mr. Doriot added that there is a five- or six-acre piece near Indiana Lake whose owner could seek multitenant development that would funnel to the lake.

Mr. Godlewski then commented that any changes to the county’s zoning ordinance would constitute restriction or prohibition, as funneling is unrestricted at this time. He commented also that the main concern of Dave Foutz, Simonton Lake Area Homeowners’ Association, was lake access via public easements, stressing that a funneling amendment cannot address such a concern. Such easements are features of subdivision plats, and funneling regulation can be imposed only on private property. The county, then, might have control over as few as half of funneling instances. Mr. Doriot added that vacation of a public easement requires consent of the county commissioners and all owners of property in the subdivision at question. Mr. Campanello added lake access by deed as another ungovernable instance of funneling.

Mr. Doriot then said that owners of lakefront property working in association can buy lots to

prevent them from becoming funnel lots. Mr. Miller responded that such lot purchasing around southwest Michigan's Eagle Lake has barred public access to Eagle Lake, but he doubted that Elkhart County could regulate access-barring lot buying.

Mr. Doriot and Mr. Stump then said that they would not be members of a funneling committee, and Mr. Godlewski said that Mr. Warner, a proponent of funneling regulation, should be on a funneling committee. Mr. Kolbus said that Ms. Snyder might have suggestions for the staff. Mr. Doriot then said, "The no-funneling wouldn't be . . . but if there was a public access on it, then I might be more apt to think about it," and clarified for Mr. Stump that a public access meant a boat launch. He clarified also that not all Indiana lakes have boat launches. Simonton Lake does have public access, and Hunter Lake's public access is privately controlled, he said, adding that he did not believe Indiana Lake had public access on its Indiana side or its Michigan side. Mr. Godlewski confirmed that while Indiana Lake is a public lake, it has no boat launch. Following Mr. Godlewski's comment, the Board could not agree on whether there is public access to the Michigan side of Indiana Lake.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Steven Edwards, that the Advisory Plan Commission create a study committee to study funneling, or keyhole development, on lakefront properties and that the committee include Ms. Snyder and Mr. Warner. The motion was carried with a unanimous vote.

Following Mr. Miller's motion, Mr. Kolbus asked that Ms. Snyder suggest to the staff candidates for committee participation. Ms. Snyder indicated that she would ask for candidates' permission before providing their names to the staff. Mr. Doriot suggested that Andy Myers, a lake area property owner, participate on the committee, and Mr. Godlewski suggested that Dave Foutz participate. The Board affirmed the suggestions.

## 7. *Additional Zoning Ordinance Amendments*

IDNR has expressed concern over the section of the new ordinance concerning floodplain, said Mr. Auvil. Amendments addressing floodplain, need for general content clarification, additions, and typos will be brought to the Plan Commission over the next couple of months, he said.

Mr. Doriot said that IDNR is worried about Elkhart County's ordinance but does not seem worried about the maps. He recalled a recent instance of a plan to move a building away from a low area not in a drawn floodplain and into a high area that was in fact in a drawn floodplain. The project area was in an area of limited study, and map correction required a long period of petitioning. He also recalled the effect of poor mapping on a new-home project near Wakarusa that he is involved in. "If they're making the public jump through this, then they need to clean up their maps," he said, and other Board members related firsthand experiences with inaccurate mapping.

Planning has asked FEMA to perform flood studies in unmapped areas, responded Mr. Godlewski. The studies will alleviate the problems but will take time and money, he said.

8. 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 9:24 a.m.

Respectfully submitted,

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Daniel Dean, Recording Secretary

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Roger Miller, Vice Chairman