

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 12TH DAY OF MARCH 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, Steve Edwards, Tom Stump, Frank Lucchese, and Blake Doriot. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, 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 12th day of February 2015 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Doriot/Edwards*) 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 zone map change from B-1 to R-1, for ***Kerey Allan DeFreese***, on property located on the south side of CR 6, 270 ft. east of CR 11, common address of 24956 CR 6 in Osolo Township, was presented at this time.

Liz Gunden presented the Staff Report/Staff Analysis, which is attached for review as *Case #24956CR 6-150127-1*.

Referencing paragraph 2 of the Staff Report, Mr. Doriot asked why greater setbacks would be imposed on existing neighboring structures, given approval of the rezoning, and Mr. Godlewski said that greater setbacks would be imposed only in the event of intensification of neighboring uses. Mr. Doriot then asked whether neighboring B-1 uses could continue to observe the setbacks they currently observe, and Mr. Kanney responded that given rezoning the neighboring uses become nonconforming. A B-1 use must observe a 25 ft. setback from an R-1 boundary, said Mr. Kanney, and Ms. Gunden added that the residential uses in question may remain. Mr. Mabry repeated for Mr. Doriot that such projects as additions to nonconforming uses are those that must observe the new setbacks, and Mr. Kolbus mentioned that relief is available via variances.

Ms. Snyder asked whether the petitioner wants to sell and commented that financing institutions have a problem lending when a residence appears in a B-1 zone. It can be done, but it is difficult, she said.

Kerey DeFreese, 51205 CR 25, Bristol, confirmed that he does want to sell. Despite several showings, realtors have mentioned that the problem he has had selling is the zone, which makes financing difficult. Sale is the sole purpose for the rezoning, he said. Mr. Kolbus commented that the realtors should be shown the zoning ordinance, which permits residential uses in the B-1 zone. Mr. DeFreese remarked that this information was new to him, and Mr. Doriot asked him to understand the impact the rezoning would have on neighboring B-1 uses, outlined above. Mr. DeFreese could not see why the building immediately west of the residence he would like to sell

would ever receive an east addition, as all the open area of the parcel the building is on is west of the building, and Mr. Miller replied that his concern is over the intent of a future owner of the west property, not the current owner. That future owner, said Mr. Doriot, would be the owner of a legal nonconforming building, given rezoning.

Rebecca Dick, 53045 Conrad St., Elkhart, whose property adjoins Mr. DeFreese's property at the south, expressed understanding of Mr. DeFreese's dilemma but said that she did not want her property's and her other neighbors' B-1 zoning to change and asked how the rezoning would affect her use of her property. The setback between the subject property and any improvements on her property would be affected, Mr. Doriot summarized, and Mr. Burbrink then clarified for Mrs. Dick what setbacks are.

Mr. Campanello asked Mrs. Dick how long she has lived at her current home, and Mrs. Dick said 40 years. He then asked how long the area has been zoned B-1, and she said it was B-1 when she arrived. Mr. Campanello then concluded that 40 years ago a plan for the area called for the B-1 zone.

Bruce Wilson, 24936 CR 6, Elkhart, lives at the southwest corner of CR 6 and Conrad St. and stated first that none of the owners of area property know where their property lines are, which renders "arguing about shifting things around" not possible. He then said that he has run a business from his home for 30 years and would be hurting badly without the B-1 zone, concluding that the proposed rezoning will prevent him from running his business.

Cynthia Sigsbee, owner of the property with address of 53061 Conrad St., Elkhart, which has been zoned B-1 throughout her ownership, stated that she would like to keep her property B-1 for future purposes.

Mr. DeFreese began his response by stating that he took ownership of the subject property in the late 1980s, when his parents were aging and growing ill. He said also that Ms. Sigsbee at one time tried to "help market that entire block" to encourage development similar to that appearing west of the subject property. He said he remembers receiving notice of the petition to rezone the area, including portions along Conrad St., from R-1 to B-1 in the late 1980s or early 1990s and not protesting, emphasizing that he had lived in the house on the subject property, where he grew up, since 1959 and that the zone was not B-1 then. Since rezoning, no interest in business development has been expressed, and the only businesses present are those home-based ones operated by Ms. Sigsbee and Mr. Wilson. The neighbors are great neighbors whom he grew up with, but he needs to sell the house, he said.

Mr. Miller asked Mr. DeFreese whether he has tried talking to bank representatives about the content of the zoning ordinance, and Mr. Kolbus mentioned that Mr. DeFreese should ask his realtors to check the ordinance, which demonstrates that residential uses are permitted in the B-1 zone. Mr. Doriot suggested that Mr. DeFreese bring a realtor to a meeting with a Planning staff member and ask the staff member to show them the information in the ordinance. Mr. Godlewski offered that the staff can write a letter confirming that the use in question is permitted. Representatives of local banks making lending decisions should also be shown the ordinance, and this might influence their decisions, added Ms. Snyder.

Mr. DeFreese said that he did not know the B-1 residential provision was in place and that he would not have filed his petition had he known. He concluded expressing contentment with the B-1 zone.

A motion was made and seconded (*Doriot/Warner*) that the public hearing be closed and the

motion was carried with a unanimous vote.

Mr. DeFreese then asked whether the provision was first made in 2015, and Mr. Mabry explained that while the old zoning ordinance did contain the provision, the use table appearing in the new ordinance clarifies the provision.

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

Motion: Action: Denied, Moved by Roger Miller, Seconded by Steve Warner, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from B-1 to R-1 for *Kerey Allan DeFreese* be denied in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

After Mr. Miller's motion and Mr. Warner's second and before the roll call vote, the Board explained to Mr. DeFreese that if he cannot convince realtors of the legitimacy of the residential use in question before the April 20, 2015, meeting of the Board of County Commissioners, he should attend the April 20, 2015, meeting with a continued interest in rezoning.

5. The application for a zone map change from R-1 to B-3, for *Gordy, Inc.*, on property located on the south side of Toledo Road (US 20), 300 ft. west of Silver Crest Drive, 1,550 ft. east of CR 16 (Goshen Avenue), common address of 1725 Toledo Road in Concord Township, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #1725ToledoRd-150128-1*, noting that the BZA petition tabled August 21, 2014, was for a church use.

Mr. Miller asked Mr. Kanney whether the petitioner agreed with the tabling recommendation, and Mr. Kanney responded that he did not ask.

Mellony Clark, daughter-in-law of the petitioner, and Tony Clark, 62055 CR 11, Goshen, came forward at this time to speak on behalf of the petitioner. Mr. Clark said that B-3 is requested to permit access to and use of existing structures. No change in use is desired, but the petitioner would like to grow plants hydroponically inside "the building." He said the petitioner also seeks "usable access" and indicated an existing truck dock at the rear of a greenhouse on the east side of parcel ending -176-025. No changes to driveways, parking lots, or structures are proposed, he added.

Mr. Miller asked what vehicle usage is expected, and Mr. Clark responded that one semi per week would access the truck dock. The property would also receive one or two straight trucks per week. Possibly only one or two people, who will park in an existing gravel lot, will work at the facility. Mr. Clark then clarified for Mr. Campanello that truck drivers access the above-mentioned dock, turn around, and exit on the east side of the parcel containing the dock. Mr. Campanello said that drivers have been doing this for a long time, and Mr. Clark agreed. Mr. Miller asked whether there is a residence onsite, and Mr. Clark said yes, it is in the northeast corner of parcel ending -176-025, in an area already zoned B-3.

Dawn (last name unclear), 56296 Silver Crest Dr., Elkhart, who said she was present on behalf of the Silver Crest subdivision neighborhood, asked why rezoning is requested if there will be no change to what is already established, saying that she does not want the subject property to see any business use other than the existing use, established by Mr. Sautter years ago, which

includes a residence, a floral shop, a mechanics' garage, greenhouses in the rear, and a dirt road. She opposed added truck traffic, as trailed-up dirt and dust already affect her neighborhood.

Mr. Campanello then mentioned the dock access lane, and Dawn called the lane not a road but a dirt area. Mr. Sautter has removed any limbs of east neighbors' trees that extended over the dirt area and would have scratched any semis using the area, she said. She opposed the limb removal and stated she did not want any trucks going through the area.

Mr. Doriot asked whether Dawn would oppose the running of a hydroponics operation like what used to be done, which might include the growing of tomatoes and other vegetables, and Dawn said no, she would not oppose the growing of anything herbal, like trees or other plants, and repeated that her neighborhood does not want the use to become greater than what has been established. She also described her neighborhood as a quiet, long-established pocket surrounded on three sides by nursery property and expressed concern, which began when Mr. Sautter's property was auctioned, that the owner's intent might be to rezone the entire surrounding area to B-3, a move that could invite any use permitted by the B-3 zone.

In response, Mr. Clark, who admitted having little knowledge of the property, indicated the current B-3 zoning along Toledo Rd. and said he did not know whether the greenhouse uses not in the B-3 area were permitted by special use and may continue. He did state that he was not aware of any convenience store proposals or any proposals that would otherwise impact neighboring residential properties.

Mr. Doriot asked Mr. Kanney whether the special use for the greenhouses is still valid, and Mr. Kanney said yes. As long as the use is the same, a change in ownership is not usually relevant, Mr. Kanney said. Mr. Stump asked whether the proposed use is the same as Mr. Sautter's use, and Mr. Kanney indicated it is not, as the proposed use includes a truck dock and storage of heavy equipment. Mr. Burbrink commented, however, that Mr. Sautter's use did include use of heavy equipment including backhoes. Mr. Clark then said that Mr. Sautter did own semis and used "that driveway" to access a steel building "that sits farther back there," in the R-1 area.

Mr. Doriot expressed for Mr. Clark the Board's concern, in consideration of the adjoining residences, over the many uses permitted by straight B-3 zoning, and asked whether the staff's interest in the petitioner's consideration of a Planned Unit Development (PUD) was for the entire site. Mr. Kanney and Ms. Snyder indicated yes. Mr. Clark then clarified for Mr. Doriot that though the petitioner owns the entire nursery site, he presently seeks to rezone only the area highlighted on the staff-prepared aerial view.

Mr. Stump and Mr. Doriot then determined that if the present petition is not granted, the petitioner's alternatives are to seek an additional special use and to propose a PUD.

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

Mr. Kolbus and Ms. Snyder commented that the petitioner should have been present for today's hearing. Mr. Campanello asked whether the petitioner may, despite a motion to table, continue operations that are consistent with those permitted by the current special use, and Mr. Kolbus and the rest of the Board indicated yes. Mr. Burbrink, who has visited the site many times, and Mr. Doriot expressed certainty that semis have gone onto the subject property, as fertilizer is normally delivered by semi. Mr. Stump indicated the trailer visible in the dock on the staff-prepared aerial view. Mr. Campanello commented that semi drivers probably accessed the dock in question on the west side of the area the petitioner is asking to rezone and that the new owner should prevent

access on the east side if he wants to be a nice neighbor.

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

Motion: Action: Table, **Moved by** Tony Campanello, **Seconded by** Jeff Burbrink, that the Advisory Plan Commission table this request for a zone map change from R-1 to B-3 for **Gordy, Inc.**, to allow the petitioner the opportunity to consider a Planned Unit Development, which would:

1. Provide an overall plan for development of the area;
2. Provide an overall access plan for the area; and
3. Provide overall drainage, buffering, and B-3 use justification for this site, particularly in the area surrounding the subdivision.

Vote: Motion passed (**summary:** Yes = 6, No = 3, Abstain = 0).

Yes: Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Steven Edwards, Tony Campanello.

No: Blake Doriot, Frank Lucchese, Tom Stump.

6. The application for a zone map change from A-1 to M-2, for **Jerry W. & Ruby Bontrager**, on property located on the west side of SR 13, 500 ft. south of CR 4, common address of 52083 SR 13 in York Township, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #52083SR 13-150202-1*.

Jerry Bontrager, 11917 SR 120, Middlebury, was present and stated that he has an opportunity to sell and develop the subject property, but the uses desired by the interested parties will require rezoning. He noted the M-1 zoning immediately north of the subject piece, where Star Fleet Trucking presently operates a travel trailer storage area, and said that while he is operating a cabinet shop on the subject property, a change to M-2 will maximize his options.

Mr. Doriot called sawmills “a big extreme” and asked about the scope of the sawmill use. A sawmill is a red flag, Mr. Bontrager conceded, and explained that an Amish neighbor is interested in setting up an outdoor sawmill, to be surrounded by concrete barriers, on the existing bare slab that once supported Gene Foreman’s storage building. Future plans, Mr. Bontrager said, call for the neighbor to “purchase the rest of that property from me, and then he would move into the building that is there now.”

Mr. Campanello asked whether semi drivers delivering logs would arrive at the subject property, and Mr. Bontrager said yes, logs would be delivered and then cut for pallet lumber.

Bruce Hamilton, 52215 SR 13, Middlebury, has run a bed-and-breakfast two parcels south of the subject property for the last six years and stated that a sawmill would be a detriment to his business unless its operating hours are restricted. A sawmill would change the chemistry of the area, he said. The subject property is surrounded by residences, and a church appears at the southeast corner of CR 4 and SR 13. Mr. Bontrager’s current workshop, quiet and in a sense secluded, is compatible with the area, but a change to a manufacturing use has the potential to destroy the bed-and-breakfast, Mr. Hamilton said.

Mr. Campanello asked what the use of the two rectangular parcels abutting the subject property at the west is, and the Board responded agricultural and residential. Mr. Hamilton was unable to respond, as trees on the west portion of the bed-and-breakfast parcel block his view to the west. Mr. Miller noted that one owner possesses a large parcel (ending -200-020) abutting three SR 13 properties and featuring a dirt track. Mr. Hamilton confirmed that the track was a motorcycle

dirt track, which has not seen use since he has owned the bed-and-breakfast property. He then agreed with Mr. Miller that the west properties are residential, adding that “just to the [south] of our property” appears farmland that, he said, will not see any change. Residences appear between the farmland and SR 120, he concluded, and Mr. Miller indicated the Middlebury KOA location near the intersection of SRs 13 and 120.

In response, Mr. Bontrager reminded the Board that a segment of the SR 13 corridor south of the toll road is now seeing M-2 development. He held that the entire corridor between the toll road and Middlebury will eventually see such development, and cited January 2015 Plan Commission approval, despite opposition, of rezoning to M-2 of a 28-acre piece east of the intersection of CR 2 and SR 13. Mr. Doriot responded that extensive commitments were placed on the cited rezoning.

Mr. Bontrager then expressed understanding that permitting follows rezoning, and Mr. Doriot responded that the subject property, rezoned to M-2, can see any use permitted by the M-2 zone.

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

Mr. Doriot observed that the area of the subject property is in flux and understood the petitioner’s desire to rezone. Mr. Campanello asked how far south a nearby TIF district extends, and the Board agreed that it does not reach the subject area. Ms. Snyder asked how long the M-1 zone at the southwest corner of CR 4 and SR 13 has been present, and Mr. Stump and Mr. Miller responded at least 10 years. Mr. Stump asked what zones appear north of the referenced M-1 area, and the Board noted an A-1 zone appearing at the northwest corner of CR 4 and SR 13 and additional M-1 zoning appearing between the A-1 area and the toll road and west of the A-1 area. Mr. Campanello then mentioned a recent rezoning request for property on the east side of SR 13, just north of SR 120. The use of that property was to be changed from furniture sales to RV servicing, said Mr. Miller.

Mr. Miller further observed that though the subject property is close to areas in flux, the immediate area of the subject property is not such an area. He called the area pretty solid, adding that no utilities have been run to it. Middlebury has not extended utilities, and White Pigeon utilities have been extended only to areas north of the toll road. Mr. Campanello and Ms. Snyder expressed concern over the scale of a change from A-1 to M-2, and while Mr. Campanello could envision the proposed use north of CR 4, he could not do so on the subject property. Mr. Miller then noted area traffic congestion.

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

Motion: Action: Denied, **Moved by** Tony Campanello, **Seconded by** Blake Doriot, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to M-2 for *Jerry W. & Ruby Bontrager* be denied in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

7. The application for a zone map change from M-2 to B-2, for *Susan C. McCollough*, on property located on the south corner of CR 45 and Hammond Street, 750 ft. northwest of US 20

bypass, common address of 24714 CR 45 in Concord Township, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #24714CR 45-150203-1*.

Susan Miller, 24714 CR 45, Elkhart, who is currently known as Susan McCollough, was present and stated that she has a chance to sell the house but cannot sell because of the present zoning. Buyers want to be able to rebuild in the event the house burned.

Rezoning makes sense this time, Mr. Doriot asserted.

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 M-2 to B-2 for *Susan C. McCollough* be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

** It is noted that Mr. Miller stepped down from the Board at this time due to a potential conflict of interest.*

8. The application for a zone map change from A-1 to a General Planned Unit Development M-2 to be known as **BRISTOL PARK FOR INDUSTRY PHASE 4 - GPUD M-2**, for Agnes B. Blakesley Trust (seller) and Universal Trailer Corporation (buyer) represented by Marbach, Brady & Weaver, Inc., on property located on the southwest corner of CR 4 and CR 29, in Washington Township, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #00000CR 4-150202-1*.

Chris Marbach, Marbach, Brady & Weaver, Inc., 3220 Southview Dr., Elkhart, who was present representing the Blakesley trust, Wagner Land Development, and Universal Trailer Corporation, began by indicating the various Bristol Park project phases near the intersection of CR 29 and the toll road that have received Plan Commission approval and been annexed by the Town of Bristol. He noted also that Commerce Dr. now extends east to CR 29 and that area utilities are installed and functional. Most Bristol Park sites feature buildings. Development of the subject property is the next logical step in Bristol Park expansion, he said.

Continuing, Mr. Marbach said that Wagner Land Development has begun the annexation petition process; the first annexation reading will be held April 30, 2015. All parties have agreed that sewer and water will be extended north from the intersection of Commerce Dr. and CR 29 to CR 4. Highlighting uses surrounding the subject piece, he mentioned the 27-acre parcel to its east, which features a house hidden by trees, the evergreens on the KBT Limited-owned 78-acre area to its north, and the residence approximately 680 ft. west of the subject property's west property line. The petitioners agree to the zoning ordinance's buffering requirements and the withholding of a certificate of occupancy until annexation, he added.

A GPUD is presented, Mr. Marbach explained, so that the developer can be comfortable knowing that the proposed use will be allowed. Property purchase and a DPUD application will follow GPUD approval. Whereas M-1 was requested for the other Bristol Park projects, M-2 zoning is now requested, as the new zoning ordinance provides that trailer manufacture, assembly, and storage, including outside storage, are permitted uses only in the M-2 district. The GPUD application offers the stipulation, however, that only three uses be allowed: outdoor storage of finished product, manufacture and assembly of recreational vehicles including trailers, and use of the subject property as a transfer lot. The third use means that no satellite site is required; finished product will be stored onsite. No outdoor storage of raw materials or materials in process is planned, said Mr. Marbach, and the technologically advanced facility will use automation and other modern techniques.

The Bristol town council is receptive to annexation and wants the current project to move forward, Mr. Marbach further explained, offering tax incentives that have attracted Universal Trailer to the Bristol area.

Mr. Doriot then indicated the Bristol location of the St. Joseph Valley Rifle & Pistol Association, between the toll road and SR 120, east of CR 29, emphasizing that this existing use makes a lot of noise. Mr. Marbach indicated awareness of the use.

Mr. Campanello affirmed the plan for onsite trailer storage with no separate storage site, and Ms. Snyder asked for confirmation that the petitioner agrees to the three use-restricting commitments. Mr. Marbach confirmed.

Bill Wuthrich, Bristol town manager, 303 E. Vistula St., Bristol, repeated that the town agrees to the petition. The subject property, he said, is part of the final phase of the Blakesley annexation. An eight-acre portion of toll road property must be annexed as well during the process, and this annexation has been approved by the Indiana Department of Transportation. Quotes for extension of water and sewer have been received, NIPSCO has already extended three-phase electrical service as far north as the toll road, and high-pressure gas service has already been extended as far as the east side of CR 29, south of the toll road.

Soil types present and location, on CR 4 near SR 15, qualify the subject property for development, Mr. Wuthrich continued, and the new facility will be a county asset. A five-year tax phase-in has been approved for the subject property.

Mr. Campanello asked Mr. Wuthrich how much more wastewater the Bristol wastewater plant can handle, in consideration of approval of the current petition and future annexations, and Mr. Wuthrich responded that the plant is now running at 40 percent capacity. Though the plant can handle much domestic use, the town is not in favor of another food processing facility or any new uses that discharge iron and other heavy metals. Monogram Foods's facility is an existing Bristol food processing facility that pretreats its wastewater. The proposed facility's wastewater will constitute the domestic use of 100-150 employees and will be easily handled by the plant. A 1999 plant upgrade enabled a future doubling of capacity, said Mr. Wuthrich, whose first question concerning new Bristol development is always about water and sewer use. And though enough water is available for Bristol domestic use, from two existing wells, a new 12 in. well for fire suppression had to be installed, Mr. Wuthrich concluded.

There were no remonstrators present.

A motion was made and seconded (*Doriot/Edwards*) 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** Frank Lucchese, 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 General Planned Unit Development M-2 to be known as **BRISTOL PARK FOR INDUSTRY PHASE 4 - GPUD M-2** be approved in accordance with the Staff Analysis and as presented, with the following conditions to be part of the GPUD Ordinance for the property:

1. The site plan/support drawing for the Detailed Planned Unit Development for the property must be consistent with the site plan, application, and support materials provided for the General Planned Unit Development.
2. A Certificate of Occupancy will not be issued for the property until after the property is annexed into the Town of Bristol.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

Absent: Roger Miller.

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

9. The application for an amendment to the Site Plan/Support Drawing of an existing Detailed Planned Unit Development known as **SMART M-1 D.P.U.D. SSD AS BUILT**, for SCM Properties, LLC, represented by B. Doriot & Associates, Inc., on property located on the northeast corner of CR 23 and CR 50, common address of 70680 CR 23 in Jackson Township, zoned DPUD M-1, was presented at this time.

Mr. Doriot first stated that The Elkhart Truth improperly notified the public of the application and that he and the staff decided that, for that reason, the application should be tabled. He then noted the presence of the below remonstrator and said that no SCM Properties representative would be present today.

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

Mr. Mabry did not present the Staff Report/Staff Analysis, which is attached for review as *Case #70680CR 23-150204-1*. He instead presented to the Board an e-mail from Mr. Doriot to Mr. Godlewski requesting tabling of the application to May 2015 *[attached to file as Staff Exhibit #1]*.

Mr. Kolbus then said that past Board action under these circumstances has been to permit a remonstrator to speak, as long as the remonstrator understands that he or she will speak about something that might change. If the remonstrator speaks, the comments appear in the minutes and are moved into the public hearing during the next Commission meeting during which the application is considered.

Mr. Stump then asked the remonstrator present whether he would like to speak, aware that no SCM Properties representative was present and that the hearing was likely to be continued. The remonstrator, Michael Harris, 70600 CR 23, New Paris, asked whether he would be permitted to speak during the next public hearing, and Mr. Miller, who did not object to Mr. Harris speaking, and Mr. Kolbus and agreed that he would not be allowed to repeat anything at that time. Mr. Harris

indicated understanding and said that he would like to speak.

Mr. Harris then came forward and began by stating that his is the only residential use that adjoins the subject property. He stated also that as he exited his home this morning, his eyes matted up and his breathing became heavy because of the fumes emitted by the new factory. The problem, possibly resulting from paint work, is continuous, he said, and the emissions are not being kept under control. Mr. Harris understood that the facility has requested permission from IDEM to install an additional paint room, even though, “a reliable source” has told him, the petitioners have not been able to keep their filtration systems under control in the past.

Mr. Stump interrupted Mr. Harris at this time, indicating that his comments did not pertain to the petition now before the Board. Emissions do not constitute an item the Board has authority over, he said, and read the three underlined items on page 9c of the Staff Report—drainage, emergency drive, and berm at northwest corner—over which the Board does have authority.

Mr. Harris then said that the rezoning granted was to DPUD M-1 and that the DPUD provisions required that the petitioners build in exact accordance with the proposed plan. The petitioners did not, he said. Mr. Campanello said this was the reason for a return to the Board, and Mr. Harris agreed but said the reasons include the items he stated above, which are not in compliance with code, he held. Mr. Stump then repeated that the only items the Board was able to address were the three above items.

Mr. Harris responded that he had included more items than the ones on Staff Report page 9c in his objection, and understood that that objection was what triggered today’s hearing, asking whether those other items had been lost. Mr. Stump suggested that the five conditions listed under the emergency drive heading on Staff Report page 9c were Mr. Harris’s additional items, but Mr. Harris denied that his objection addressed the emergency drive, listing instead dust collector noncompliance, dust collector noise, excessive docking bays—12 instead of the proposed seven—and the presence of traffic day and night as some of those additional items.

Mr. Stump attempted to permit Mr. Harris to speak about those additional items briefly, but Mr. Campanello objected, stating that Mr. Harris can return another time to voice his objections and that the Commission cannot do anything about them now. Mr. Harris’s response was that he has been waiting seven or eight months to be heard and that though his family has occupied his property for over 100 years, all of a sudden his family cannot breathe or open a window. Mr. Stump asked whether the additional objections were in written form and asked whether the Board could now hear those objections, offering that Mr. Harris should be able to voice them. Mr. Mabry said he thought a letter from Mr. Harris addressing the items was included in the Board members’ packets, but the Board confirmed it was not. Mr. Stump again read the three items the Board could now address, and Mr. Harris again denied knowledge of the referenced emergency drive.

Mr. Burbrink understood that the Board may consider differences between the PUD site plan and what was actually built and said that matters of pollution, noise, and dust are not part of that. Mr. Mabry clarified that the facility was built differently from what was approved for the PUD and that the as-built site plan reflects what was built. Mr. Stump and Mr. Burbrink agreed that emissions are a state matter. Mr. Godlewski asked that the Board remember that the petitioner, who was not present, requested tabling and that all the Board may seek is information. He said that no discussion may be had until the date to which the application is tabled, when the public hearing may continue, but the Board may decide to accept testimony. Mr. Kolbus, who agreed with Mr. Campanello that Mr. Harris has the right to speak, observed that the exact list of items that the

Board should consider, which is unclear, must be determined so that Mr. Harris's comments are appropriate. Mr. Kolbus also recommended that the staff provide any revised Staff Report to Mr. Harris at the time it is provided to the petitioner.

The Board examined the public hearing matter, and after due consideration and deliberation: **Motion: Action:** Keep Public Hearing Open, **Moved by** Tony Campanello, **Seconded by** Frank Lucchese, that the public hearing for this request for an amendment to the Site Plan/Support Drawing of an existing Detailed Planned Unit Development known as **SMART M-1 D.P.U.D. SSD AS BUILT** remain open and that the discussion be continued during the May 14, 2015, meeting of the Advisory Plan Commission.

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

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

Absent: Blake Doriot.

Mr. Warner asked whether any code enforcement action on the subject property has been taken. Mr. Mabry replied no, and Mr. Godlewski added that the current application is a remedy that permits approval of a new plan. Mr. Kolbus then further confirmed that Mr. Harris's letter was not included in the Board member's packets. The Board members should have access to the letter, he said. Mr. Lucchese said that Mr. Harris should be given the updated Staff Report so that he can be ready for the May 2015 hearing, and Mr. Stump then asked for clarification of the items in Mr. Harris's letter the Board has authority over.

The Board examined the request to table, and after due consideration and deliberation: **Motion: Action:** Table, **Moved by** Roger Miller, **Seconded by** Steven Edwards, that the Advisory Plan Commission table this request for an amendment to the Site Plan/Support Drawing of an existing Detailed Planned Unit Development known as **SMART M-1 D.P.U.D. SSD AS BUILT** to the May 14, 2015, meeting of the Advisory Plan Commission. The motion was carried with a unanimous vote.

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

10. The application for an amendment to the Site Plan/Support Drawing of an existing Detailed Planned Unit Development known as **FIRESIDE CENTER, R-4 P.U.D.**, for CR4 Properties, LLC (Timothy A. Miller), owner, and Schrock Real Estate, LLC (Robert Schrock), owner, represented by Brads-Ko Engineering & Surveying, Inc., on property located on the southwest corner of CR 45 and access road to CR 17 (across from Missouri Avenue), common address of 21920 CR 45 in Concord Township, zoned DPUD R-4, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #21920CR 45-150130-1*, indicating on GIS the existing Fireside office, common parking area, and CR 45 entrance.

** It is noted that Mr. Lucchese stepped down from the Board during Mr. Mabry's coverage of the history portion of the Staff Report (page 10a) and returned to the Board during Mr. Mabry's coverage of the analysis portion of the report (page 10b).*

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth St., Goshen, was

present representing Fireside Homes, CR4 Properties, and Sunrise Sprinkler. He began by indicating the railroad, which adjoins the subject property, and mentioning that the project involves no rail siding. The GPUD process was started in 2005, and the first section, where the Fireside Homes office lies, was platted by 2008. Also completed by 2008 were the CR 17 overpass and adjoining access road. The subject site has featured only one new building since 2008, the time when the bottom fell out of the real estate development market, Mr. Pharis said.

Continuing, Mr. Pharis stated that while the original plan called for seven lots, the amendment calls for six. Lot 1 features the Fireside Homes office, lot 5 will feature the building to be used by Sunrise Sprinkler, and lots 2, 3, 4, and 6 remain available. The lots are served by a common CR 45 access point, a community well, and common parking, landscaping, retention, and signage. Each lot has limited-common-area parking as well. The two existing signs are at the south corner of the property and the CR 45 entrance. Mr. Pharis further explained that each lot will support its own field septic system and may have its own monument sign. Each building may have a building sign as well.

Attorney-prepared covenants, restrictions, and cross-easement maintenance agreements have been reviewed by planning staff, and the agreements pertain to the lots as they are purchased. The agreements address matters including snow removal and maintenance of asphalt and parking, the community well, and landscaping, which are to be handled by lot owners.

Mr. Lucchese and Mr. Miller had no questions, and Mr. Miller indicated consent to the project.

Tim Miller, Fireside Homes and CR4 Properties, 21920 CR 45, Goshen, indicated the existing residence on proposed lot 6, which will be torn down upon sale of the lot.

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** Roger Miller, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an amendment to the Site Plan/Support Drawing of an existing Detailed Planned Unit Development known as ***FIRESIDE CENTER, R-4 P.U.D.***, be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

11. The application for Secondary approval of a Detailed Planned Unit Development known as ***FIRESIDE CENTER SECOND***, for CR4 Properties, LLC (Timothy A. Miller), owner, and Schrock Real Estate, LLC (Robert Schrock), owner, represented by Brads-Ko Engineering & Surveying, Inc., on property located on the southwest corner of CR 45 and access road to CR 17 (across from Missouri Avenue), common address of 21920 CR 45 in Concord Township, zoned DPUD R-4, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #21920CR 45-150130-2*.

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

Motion: Action: Approve, **Moved by** Frank Lucchese, **Seconded by** Tom Stump, that the

Advisory Plan Commission approve this request for Secondary approval of a Detailed Planned Unit Development known as *FIRESIDE CENTER SECOND* in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

12. *Ann Connolly—Approval of Written Commitment; Sand Bar Investment Group, LLC (developer)—Approval of Revised Written Commitment*

Mr. Godlewski at this time presented a written commitment prepared for Ann Connolly following February 2015 Plan Commission recommendation of rezoning approval and a revised written commitment prepared for Sand Bar Investment Group, LLC, following January 2015 Plan Commission recommendation of rezoning approval.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Frank Lucchese, that the Advisory Plan Commission approve the commitment forms prepared for Ann Connolly and Sand Bar Investment Group and presented by Mr. Godlewski. The motion was carried with a unanimous vote.

13. *Brian Mabry*

Mr. Mabry's last day as county zoning administrator, said Mr. Godlewski, is March 13, 2015. He will move to the Louisville, Kentucky, area to work and be closer to family. Mr. Godlewski described him as a hard worker who fit in well and committed over 600 work hours to the zoning ordinance project. Mr. Mabry responded that the Plan Commission was welcoming and friendly and mentioned former administrator Ann Prough, who helped him transition into the position. He concluded stating gratefulness for the experience. Mr. Warner expressed gratitude to Mr. Mabry for being present when the county most needed someone with expertise in ordinance rewriting, and Mr. Burbrink said he was at the right place at the right time.

Mr. Godlewski then mentioned that the interview process is underway and that a replacement for Mr. Mabry might be in place by the end of March 2015. Mr. Doriot asked whether the applicants are local or remote, and Mr. Godlewski said that while two are local and one is remote, the two local ones are the best applicants. All are qualified, certified planners with 10–15 years' experience.

14. *Comprehensive Plan Copies*

Mr. Kolbus mentioned during a recent hearing that the Plan Commission members should have access to copies of the comprehensive plan as they consider applications, and Mr. Godlewski said that the copies on the Board table were for the Commission members to keep for that purpose. Mr. Burbrink suggested that the copies be left at the public services building and placed at the table every month, and Mr. Godlewski consented.

15. 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 10:55 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman