

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 8TH DAY OF OCTOBER 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 Jeff Burbrink with the following members present: Tony Campanello, Jeff Burbrink, Lori Snyder, Roger Miller, Steve Edwards, and Tom Stump. Steve Warner, Blake Doriot, and Frank Lucchese 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 (*Stump/Edwards*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10th day of September 2015 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Edwards/Campanello*) 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 to amend rezoning commitment #1 to allow septic, private and/or public sewer for the sanitary facilities, for **Grand Design** represented by Jones Petrie Rafinski, on property located on the south side of CR 2, 2,400 ft. west of SR 13, in York Township, zoned M-1, was presented at this time.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 2-150831-1*.

Ken Jones, Jones Petrie Rafinski (JPR), 4703 Chester Dr., Elkhart, who was present on behalf of the petitioner, began by stating that JPR has been helping Grand Design plan for growth since early 2014. Progress is ahead of schedule, Grand Design workforce will triple by the time of project completion, and Grand Design has received growth-based incentive packages from Elkhart County and Indiana Economic Development Corporation (IEDC), Mr. Jones said. He then indicated the locations of the current Grand Design campus and corporate offices, zoned M-1, on the north side of CR 2 and west side of SR 13, and further explained that the rezoning of the parcel to host Grand Design's expansion (-200-013) was to straight M-1 and that the parcel can accommodate up to three 100,000 sq. ft. buildings.

That the Middlebury toll road interchange area has no municipal utilities is a condition that the county would not again approve, Mr. Jones then explained, and JPR has been working with White Pigeon, Michigan, and the Elkhart County Regional Sewer District to connect sanitary sewer to White Pigeon's wastewater plant.

Grand Design, which is triggering area growth, has agreed to fund construction; Lippert Components has volunteered its help too; and JPR, which for many months has been working on the sewer plan, is also working for adoption of a new 1,100-acre TIF district covering the Middlebury toll road interchange area.

The belief that sewer would be in place by the start of the first building project on the newly rezoned parcel was too optimistic, Mr. Jones then admitted. But in April 2015 JPR delivered a

White Pigeon sewer agreement to the Elkhart County Regional Sewer District, which is “on the verge of signing” the agreement. Two outstanding issues are unresolved, he said without elaborating, but he expected to hear of mutual approval of the agreement October 8 or 9, 2015. Sewer design is complete, however, and sewer permitting will be complete within one week. TIF and reimbursement agreements between the above-mentioned private funders, which are risking an amount “just shy of \$1 million,” and the Elkhart County Redevelopment Commission are also under review.

Aware that health department approval is a prerequisite to building permit issuance, Mr. Jones then clarified that the reason for his appearance today was that Grand Design will need a building permit for work on the newly rezoned parcel before sewer is built, because of the company’s accelerated growth. JPR has thus worked with the health department on a contingency plan that includes design of a large septic system on the newly rezoned parcel that will serve Grand Design’s entire campus, including the site on the north side of CR 2. Mr. Jones emphasized, however, that he wanted nothing to do with building such a system, which will take up too much land and is not the right answer, but that the contingency plan had to be promised to secure health department approval of a building project. He clarified further that an alteration to the rezoning commitments is requested because of arrival of sewer later than expected.

Mr. Jones also assured the Plan Commission of Grand Design’s interest in sewer project completion, as it has paid for design development and White Pigeon’s legal fees, and he said that other local parties are also interested in connecting.

Expressing agreement with the Staff Report, Mr. Jones held, though, that the two new commitments at bottom were contradictory. Grand Design cannot connect to public sewer before expansion, and it does not want to build private sewer before expansion, he explained. The building project and the sewer project will be concurrent and will see spring or June 2016 completion, he said, noting that if sewer is not built by the time Grand Design is ready to move into the new building, the contingency plan will come into effect.

Mr. Jones said finally that growth in the area at question is expected and that the sewer project will alleviate area environmental problems resulting from businesses’ use of septic systems. Businesses connecting to sewer will gain land that had been reserved for septic systems, he added.

Mr. Campanello sought clarification of commitment 2 at the bottom of the Staff Report, asking whether the staff agrees to private septic serving the first new building but does not agree to expansion without sewer connection. Mr. Auvil’s response was that any private septic system has to be designed to support all proposed development onsite, not just the first of three 100,000 sq. ft. buildings. Responding to Mr. Auvil, Mr. Jones said that such a system, intended for the south side of the south parcel, has been designed preliminarily, though not in detail, as a result of JPR’s interaction with the health department during expansion of an existing building on the north side of CR 2.

Mr. Campanello further asked whether 300,000 sq. ft. of buildings will be built before sewer is in, and Mr. Jones said no, adding, however, that if a septic system that would support all existing and proposed buildings needed to be built, Grand Design has enough space for it.

Ms. Snyder asked Mr. Jones whether the sewer project will begin as soon as the agreement between White Pigeon and the Elkhart County Regional Sewer District is approved, and he said yes. A resolution pronouncing the project a sewer district project and announcing private partnership for funding will follow approval, as will bidding, he said. Ms. Snyder asked when bidding will begin,

and Mr. Jones hoped it would begin before the end of 2015 or in January 2016. If the contractor can do any work over the coming winter, JPR will allow it, Mr. Jones added, as the IEDC grant must be spent by June 2016.

Mr. Miller asked for further confirmation that “by June of next year, White Pigeon can put sewer down there,” and Mr. Jones assured Mr. Miller that sewer will be in the ground, underscoring the urgency of the project and noting the six-month project delay caused by agreement review.

There were no remonstrators present.

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

Mr. Stump, who was in favor of the sewer project, did not see any reason to require construction of a septic system that would support three 100,000 sq. ft. buildings when the petitioner, which wants to connect to sewer, is experiencing a sewer construction delay and plans to put only the first new building on septic. The septic system would be in use for only a few months, said Mr. Burbrink, expressing agreement with Mr. Stump.

Mr. Miller thought White Pigeon had been mulling extension of sewer to the area in question for the last two years, and Mr. Burbrink said White Pigeon sewer was already in Elkhart County. Mr. Jones then came forward and said that sewer in the area in question serves only the few Elkhart County homes that are on Stone Lake and Fish Lake. The sewer is LaGrange County sewer, present by interlocal agreement.

The staff probably asked for a septic system capable of supporting all proposed development out of fear of sewer agreement breakdown, surmised Ms. Snyder, who could see reason for the requirement. Mr. Stump could not see reason for it, “because if they build another building, then they’d have to build another septic system if they didn’t have sewer.” He expressed support for the Staff Report as written, however.

Mr. Miller, in support of Grand Design’s septic contingency plan, described above by Mr. Jones, warned that two more years might pass “before White Pigeon finally gets that sewer down there.” Mr. Stump agreed that contingency plan formulation should be Grand Design’s call.

The project is not a White Pigeon project but an Elkhart County project, Mr. Jones clarified for Mr. Miller. White Pigeon will provide treatment, but the sewer will be built under the auspices of the Elkhart County Regional Sewer District, which asked, through Grand Design, for acceptance as a White Pigeon customer. Mr. Jones described the agreement as both an interlocal agreement and a bulk-customer agreement, and he said that White Pigeon will neither fund nor oversee construction. Project delay is not the fault of White Pigeon, which has quickly provided approvals, but is attributable to the involvement of four other governmental boards and the interstate agreement review process.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Tony Campanello, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request to amend rezoning commitment #1 to allow septic, private and/or public sewer for the sanitary facilities for *Grand Design* be approved in accordance with the Staff Analysis with Commitment #1 amended as follows:

1. A septic system designed for the initial development project would be acceptable providing:
 - a. The development will be required to connect to public or private sewer as soon as it is available.
 - b. The development cannot expand until it is connected to public or private sewer.

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

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

5. The applications for an amendment to an existing Detailed Planned Unit Development M-1 to be known as **JAYCO WEST 2015 DPUD AMENDMENT** and for Secondary approval of a Detailed Planned Unit Development M-1 known as **JAYCO WEST 2015 DPUD AMENDMENT**, for Jayco, Inc., represented by Jones Petrie Rafinski, on property located on the west side of SR 13 (Main Street), 2,300 ft. north of CR 20 and 1,100 ft. north of CR 20, and east side of CR 37, 2,500 ft. north of CR 20, common address of 58075 SR 13 in Middlebury Township, were presented at this time.

Mr. Kanney presented the Staff Reports/Staff Analyses, which are attached for review as *Case #58075SR 13-150831-1* and *Case #58075SR 13-150831-2*, and described the project as “an additional building” proposed for an area where no building has been shown before. Thus drainage and parking need to be shown.

Matt Schuster, Jones Petrie Rafinski, 4703 Chester Dr., Elkhart, was present on behalf of the petitioner and clarified that the project is an addition to an existing building at the northeast corner of the subject property. The addition will be for storage and warehousing of parts, and Jayco does not seek to add employees at the building at question at this time, Mr. Schuster said.

There were no remonstrators present.

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

The Board examined said requests 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 Middlebury Town Council that the request for an amendment to an existing Detailed Planned Unit Development M-1 to be known as **JAYCO WEST 2015 DPUD AMENDMENT** be approved in accordance with the Staff Analysis.

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

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

Motion: Action: Approve, **Moved by** Lori Snyder, **Seconded by** Tom Stump, that the Advisory Plan Commission approve the request for Secondary approval of a Detailed Planned Unit Development M-1 known as **JAYCO WEST 2015 DPUD AMENDMENT** in accordance with the Staff Analysis.

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

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

6. The application for a zone map change from A-1 to General Planned Unit Development R-3, for **Darryl & Maxine K. Zook** represented by Tonya Detweiler, on property located on the south side of CR 14, 2,300 ft. east of SR 13, in Middlebury Township, was presented at this time.

Ms. Gunden presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 14-150831-1*.

Mr. Miller asked whether water and sewer are “there” right now, and Ms. Gunden said that water and sewer are next to the subject property. Mr. Miller then said that he knew that the property on the west side of the subject property is on water and sewer. Ms. Gunden then confirmed that the subject property would be able to access Middlebury water and sewer.

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth St., Goshen, came forward as representative and announced that his clients—the petitioners and developer Tonya Detweiler (Blue Diamond Communities)—had instructed him to withdraw the petition. He said he would appreciate approval of the withdrawal.

No public hearing was opened.

The Board examined the withdrawal request and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Steven Edwards, that the Advisory Plan Commission accept the withdrawal of the request for a zone map change from A-1 to General Planned Unit Development R-3 for *Darryl & Maxine K. Zook*. The motion was carried with a unanimous vote.

Mr. Stump observed the manufacturing areas immediately west of the subject property and commented that while the petitioners are free to do what they want with the property, residential development might restrict manufacturing development toward the east and cause zoning conflict. Mr. Campanello and Mr. Godlewski commented that the project was in accordance with the comprehensive plan. Mr. Godlewski further said that while the project was not perfect, it would have worked.

Mr. Campanello further asked whether the subject property is in an urban growth area. Mr. Godlewski said that though county urban growth areas are undefined and unmapped, and despite the subject area’s unusual gradation from town to manufacturing area to residential area, the subject property is in an urban growth area.

7. *Major/Minor Change to Fireside Center’s DPUD*

Mr. Auvil at this time summarized a Fireside Homes request that construction of a building on lot 2 to serve as a structure accessory to an existing building on lot 1 be allowed. The accessory structure will in the future receive an office-and-workshop-area addition at front, and Tim Miller of Fireside Homes, owner of both lots, has prepared a “deed/covenant restriction” prohibiting sale of lot 2 before the new building’s front and rear portions are complete. Mr. Miller cannot build the front addition without knowing the needs of a buyer, but the proposal affords him use of lot 2 before its sale, Mr. Auvil said.

Roger Miller asked whether there is a date by which both portions of the building must be complete. Mr. Auvil answered no but emphasized that according to the proposal, there is no risk of the sale of lot 2 with only a storage building on it. Mr. Auvil offered also that the proposal does not vary greatly from the intent for the subject parcel.

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

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

8. *Zoning Ordinance: Policy Committee Update*

Six members of the policy committee met September 30, 2015, said Mr. Godlewski. Among the issues that saw discussion were funneling, fines, and signs. The committee will not meet again, but a strike-through draft will be made available to the committee and the public. A draft will also be presented during the November 2015 Plan Commission meeting, and a public hearing will be held in December 2015. The Board of County Commissioners will meet in January 2016, and the adoption date will be February 2, 2016.

In further explanation of the ordinance changes, Mr. Auvil stated that the ordinance will reflect new state law concerning wireless communications facilities and reflect the results of a supreme court case where it was determined that sign content cannot be a basis for permitting.

Mr. Auvil relayed also the committee's desire to uphold the ordinance limit, 1,000 sq. ft., on the size of accessory dwellings, or doddy houses. The committee determined that accessory dwellings with area two or three times greater than that allowed by the ordinance, for which the BZA has recently heard a slew of petitions, fall outside the idea of an accessory dwelling, instead approaching the idea of a full-size dwelling, said Mr. Auvil.

Mr. Auvil said finally that the ordinance, like the comprehensive plan, should be a living document that receives review and refinement. It is easy to uphold the wishes of the committee members when those members live and understand the zoning ordinance and comprehensive plan and understand the concepts of such things as doddy houses, noted Mr. Miller.

Mr. Burbrink recalled that during the committee meeting it was suggested that if a parcel owner wants to build an accessory dwelling of excessive size, a new adjacent lot to contain the dwelling should be created. Later sale of the dwelling would be made easier, he said. Mr. Kolbus added that the committee affirmed identification of doddy houses as accessory, small, and a matter of convenience.

Regarding property taxes, Mr. Stump asked Mr. Kolbus whether a second house on a zoning lot places the lot under a higher cap, and asked whether placing the second house on a separate lot is to a property owner's advantage. Mr. Kolbus did not know how a second house is assessed, but Mr. Burbrink said that a second dwelling is treated as a rental house, which affords a property owner no tax advantage. A misconception discovered during presentation of the draft of the new zoning ordinance approximately a year ago was that taxation and zoning are interdependent, said Mr. Godlewski. But assessment is based on use, he said. An M-1 property used for growing corn is taxed based on corn, not its zone, and a housing structure is taxed as a housing structure, regardless of the number of such structures on its parcel. Mr. Godlewski agreed also that a homeowner can only claim one home for an exemption. As houses are under cap 1 but swimming pools are under cap 3, it is to a property owner's advantage to place a second house on a separate lot, Mr. Stump thought.

During October 7, 2015, training, a speaker asked how many jurisdiction representatives keep their comprehensive plans before them during hearings, and only representatives of Elkhart County and a couple of other jurisdictions raised their hands, Mr. Campanello then mentioned. "We're way ahead of everybody else," he said, and Board and staff members agreed. Mr. Burbrink added that a speaker raised the subject of signs during the training. Representatives of other jurisdictions seemed unaware of the issue, but the county's ordinance review committee had already met over it, and Mr. Kolbus had already laid out the rules and determined their placement in the

ordinance.

Plan Commission motions are indeed based on findings of fact, as motions follow Staff Analyses, Mr. Campanello then said. Though such basis may not be verbalized, it does exist when a mover honors a Staff Analysis, said Mr. Godlewski. Reasons for staff recommendation of petition approval appearing on a Staff Analysis constitute an example of findings of fact, Mr. Kolbus added, and approval based on findings of fact is documented in meeting minutes, Mr. Campanello said.

Mr. Miller expressed gladness that Elkhart County does not have to deal with windmills, and Mr. Godlewski said that Elkhart County is not a good wind-energy location.

A further subject raised at the training was planning department updates, said Mr. Campanello. He said that Elkhart County's planning department does provide weekly updates to the Plan Commission, while planning departments of other jurisdictions do not. Mr. Godlewski's response was that weekly updates are necessary; disconnection would result if updates were given only once a month.

Mr. Burbrink further commented that the Plan Commission can request evidence to back audience claims of threatened property values. The Plan Commission does not make such requests very often, he said.

Returning to the comprehensive plan, Mr. Campanello commented that a recent Plan Commission recommendation regarding MORryde, which was in accordance with the county's comprehensive plan, did not affect the values of neighboring properties.

Mr. Burbrink also mentioned the suggestion that sign-in sheets be used during hearings. The suggestion was that attendees sign in and mark their interests: whether they will listen only, whether they will go the microphone, and whether they will be represented. Mr. Auvil's alternative was that the number of attendees present for each of three or four common remonstrator concerns be counted and that the numbers be posted at front. He suggested that the audience then be asked whether other concerns were represented and that additional numbers be posted accordingly. Both sets of suggestions were made in the interest of an efficient meeting. Mr. Kolbus then said that the Plan Commission treats the public well and does a good job of requesting that remonstrators present only new information.

Mr. Campanello asked whether, under Mr. Auvil's alternative, remonstrators would still be permitted to speak. Mr. Auvil answered that the posted numbers would represent the level of interest in each remonstrator concern, but Mr. Kolbus advised that each identified remonstrator concern be raised at least once at the podium. Mr. Godlewski assured the Board that such ways of addressing remonstrator concerns are not meant to keep anyone from speaking; they simply isolate the issues.

In recognition of the day and time of the Plan Commission's meetings, which require travel effort of attendees, Mr. Miller then expressed appreciation for the Board's having gone out of its way to permit people to speak. Mr. Stump commented that the public should be given a chance to speak on any issue addressed during a government meeting.

Ms. Snyder mentioned a comment made during training that during a zoning ordinance rewrite, it is important that members comprising an ordinance committee be the type of people who are willing to show up for every meeting. She also commended the staff for having undertaken Elkhart County's ordinance project by the book and having planned for yearly review.

9. A motion to adjourn the meeting was made by Mr. Miller and seconded by Mr. Edwards. With a unanimous vote, the meeting was adjourned at 10:02 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Roger Miller, Vice Chairman