

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 9TH DAY OF JUNE 2016 AT 9:00 A.M. IN THE
MEETING ROOM OF THE 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 Chairman, Steve Warner, with the following members present: Blake Doriot, Frank Lucchese, Tony Campanello, Roger Miller, Tom Stump, Lori Snyder, Steve Warner, and Jeff Burbrink. Steven Edwards was absent. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Liz Gunden, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board. Mark Kanney, Planner, was absent.

2. A motion was made and seconded (*Doriot/Burbrink*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 12th day of May 2016, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Miller/Doriot*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. The motion was carried with a unanimous vote.

4. The application for multiple amendments to the text of the Elkhart County Subdivision Control Ordinance, for the ***Elkhart County Advisory Plan Commission***, for all lands within Elkhart County, including all the Townships: Cleveland, Osolo, Washington, York, Baugo, Concord, Jefferson, Middlebury, Olive, Harrison, Elkhart, Clinton, Locke, Union, Jackson and Benton, but excluding the jurisdictions of the City of Goshen, the City of Elkhart, and the Town of Nappanee, was presented at this time.

Mr. Auvil presented the proposed amendments/Staff Analysis, which are attached for review [attached to minutes as Staff Exhibit #1].

A motion was made and seconded (*Burbrink/Doriot*) 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 Board recommend the Commissioners' approval of the this request for multiple amendments to the text of the Elkhart County Subdivision Control Ordinance.

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

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

5. The application for primary approval of a four-lot major subdivision to be known as ***ANCHOR VALLEY SUBDIVISION***, for Big M, Inc., represented by Brads-Ko Engineering & Surveying, Inc., on property located on the east side of SR 13, 1,700 ft. south of SR 120, common address of 53254 SR 13 in York Township, zoned A-1, was presented at this time.

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

#MA-0077-2016.

Barry Pharis of Brads-Ko Engineering & Surveying was present representing the owner/petitioner who is also present today by Marv Schmucker. Mr. Pharis noted the favorable staff recommendation and summarized some of the issues. He reported the previous creation of Anchor Ridge Subdivision where Marv and his family reside (pointed out on aerial photo). He noted various uses in the area on the aerial and pointed out the four subject lots in this request. Indicating that Mr. Schmucker purchased the land around his residence to protect his property, he reported much of the property is wetland, unbuildable, and unusable. Mr. Schmucker also purchased the property for his personal use and for his children. He has been approached by a relative who asked to build a house at the far north end, so an Administrative Subdivision has been prepared and went before the Board of Zoning Appeals as that piece of land is served by an easement that goes right by the storage facility. The variance was approved to allow one house to be constructed on that parcel. At the same time, Mr. Schmucker was approached by another couple who wanted to purchase the land immediately south of that far north piece for a single family residence and a very large horse barn and arena for their personal use. Upon examination, Mr. Pharis reported they created a four lot subdivision as over the years Mr. Schmucker has also been approached by several clients about purchasing portions of the remaining property. As Mr. Schmucker wishes to consolidate and move all of his businesses, he will do so on one lot of this subdivision. Mr. Pharis noted understanding of additional steps in the process regarding contact and cooperation with various departments and their approvals. He stated he believes they have met the conditions of the Tech Committee.

Regarding Mr. Schmucker's plan to relocate his businesses to his property, Ms. Snyder questioned if anything would be constructed in the wetlands. Mr. Pharis, using the aerial photo, indicated the proposed layout of the businesses. He reported the wetland will be kept with Lot 3 because Mr. Schmucker owns the lot in Anchor Ridge that is adjacent to the wetland. He will also own Lot 3 and the wetlands will remain untouched.

There were no remonstrators present.

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

There was some discussion about that portion of SR 13 being a low area which Mr. Pharis indicated he is aware of. Mr. Pharis noted line of sight is not an issue.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that the Advisory Plan Commission approve this request for primary approval of a four-lot major subdivision to be known as ***ANCHOR VALLEY SUBDIVISION*** in accordance with the Staff Analysis.

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

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

6. The application for a zone map change from General Planned Unit Development R-2 to A-1, for ***Rand P. & Brenda L. Leiter*** on property located on the west side of CR 3, 2,700 ft. south of

CR 38, common address of 65449 CR 3 in Olive Township, was presented at this time.

Ms. Gunden presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0096-2016*.

Rand Leiter, 65449 CR 3, Wakarusa, was present on behalf of this request, and reported a desire for the A-1 zoning to have mules.

Mr. Doriot added that this is a good thing because the property has some wet spots, and he questioned the GPUD when it was done years ago.

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** Lori Snyder, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from General Planned Unit Development R-2 to A-1 for ***Rand P. & Brenda L. Leiter*** be approved in accordance with the Staff Analysis.

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

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

7. The application for a zone map change from General Planned Unit Development B-3 to Detailed Planned Unit Development B-3 to be known as ***YODER OIL DETAILED PLANNED UNIT DEVELOPMENT***, for Pecan Plantation Ltd. Partnership (seller) and Yoder Oil Company, Inc. (buyer), represented by Jones Petrie Rafinski, on property located on the southwest corner of CR 6 and CR 10, in Cleveland Township, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #CR 6-160229-1*. He reported there was a miscommunication, and this petition should probably not have even been provided public notice. Since it was, he indicated it will be open for any comments of remonstrators. When the petitioner is ready to present, the petition will be reviewed and recommendations made/given. It was indicated that notification of future hearing should be sent to all remonstrators present today.

Jacqueline Bennett, 29838 CR 10, was present in remonstrance and indicated her property is adjacent to the subject property. She reported she has well water, and is concerned about the affect this request will have on the wild life nearby. She expressed concern with the large tanks that are associated with a gas station, ground contamination, and the increase of trash and debris in the area.

Christian Ginther, 53093 Crystal Pond, was also present in remonstrance. He expressed agreement with Ms. Bennett's concerns. He also noted it does not appeal to him to have a gas station behind his back yard.

Fran Roberts, 29829 CR 10, indicated she was present out of curiosity not in support or remonstrance. Mr. Lucchese reported although they have not seen the actual plans yet, he has heard it is a gas station.

Matt Schuster of Jones Petrie Rafinski, 4703 Chester Drive, was present representing this petition. He expressed appreciation for the comments, and reported they are looking at proceeding in the near future.

The public hearing was left open.

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

Motion: Action: Table, **Moved by** Jeff Burbrink, **Seconded by** Blake Doriot, that the Advisory Plan Commission table this request for a zone map change from General Planned Unit Development B-3 to Detailed Planned Unit Development B-3 to be known as ***YODER OIL DETAILED PLANNED UNIT DEVELOPMENT*** at the request of the petitioner/representative with the public hearing left open.

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

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

8. The application for a zone map change from A-1 to Detailed Planned Unit Development M-1 to be known as ***RITEWAY STATE ROAD 13 DPUD***, for Jerry W. & Ruby J. Bontrager represented by Cardinal Point Surveying, 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.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0165-2016*, but amended the history section by adding a fourth item: "It appears that within the last two years the BZA denied a petition to amend the use variance to include a sawmill."

Philip Barker of Cardinal Point Surveying, 1002 Zollinger Road, Goshen, was present representing Jerry Bontrager. He indicated agreement with all of Mr. Auvil's comments about the site. He noted the present access to the site is a very large curb cut, and they will maintain the north end of that limited to an approximately 24 ft. driveway. Mr. Barker reported they need to obtain a permit from the State before they can proceed. He indicated the location of the proposed structure on the aerial photo which is roughly in the location of an existing foundation. He reported the business will remain in the owner's name, and the facility will be leased. He noted the need for additional buffering along the south line while maintain much of the natural buffering. Additionally, he reported an old storage garage on the property which will be maintained as such. He noted the existing access for that will be closed, and that structure will be accessed through the site as well. Regarding storm water retention, he noted the far Northwest corner is sand so water soaks in as soon as it hits it so he does not see any problem. He believes they have demonstrated enough capacity to take care of any concerns regarding that.

Ms. Snyder questioned if the surrounding properties/neighbors have woodworking shops or home businesses also. Mr. Barker pointed out a Bed & Breakfast two properties from the subject property and several residential properties. He also noted a nearby church. Mr. Campanello asked about the possibility of this request becoming a sawmill which Mr. Barker noted is not the case. When Mr. Campanello questioned whether a saw mill could be established on the subject property if it were rezoned to M-1, Attorney Kolbus pointed out that it is a Planned Unit Development.

Bruce Hamilton, 52215 SR 13, was present representing the Bed & Breakfast, and stated their concern is the unknown possible uses that could occur with a rezoning to M-1. As it is now, they are talking about RV repair, but he questioned what would prevent it from becoming RV manufacturing and destroying the ambiance of the area such as it is. He stated their investment is upwards of a million dollars for their business, and they are concerned this is a step towards further encroachment with manufacturing and want to protect their interests. There was some discussion

about the distance between the two properties.

Mr. Doriot explained that it is set up as a Planned Unit Development and noted if this were a straight rezoning, they could do anything in the zone district. With a PUD, Mr. Doriot reported the petitioner is limited to the uses that he has presented to the Board today. Looking at the site plan, it was noted the proposed uses are recreational vehicle repair facility and a woodworking shop are the only uses being approved. Mr. Doriot reported the petitioner would need to come back before the Board if he wishes to have RV manufacturing which he doubts would have been approved by the Board. Mr. Hamilton further expressed his concern that the petitioner is taking baby steps towards totally changing the use. He questioned if this makes it easier to change toward something more intense at another point in time, and Mr. Doriot indicated not necessarily.

Mr. Miller noted it is a little misleading that the purpose of the Detailed Planned Unit Development states it is to allow the applicant the benefit of flexibility in development which tends to make one think there are all types of things that can happen there. He went on to say with a Planned Unit Development, the petitioner is limited to their specific request which is the repair and workshop.

Mr. Hamilton noted aesthetic concerns such as buffering and landscaping.

In response, Mr. Barker stated as a Detailed Planned Unit Development, it makes the development of the property easier/more flexible for the petitioner, it also gives the County a little more control over what happens on the subject property. He noted the petitioner cannot do anything other than the proposed uses without coming back before the Board. Mr. Barker noted some office buildings at the Northeast corner of the building. Regarding buffering, he reported they have a Class 3 buffer which means they must be 25 ft. away from the property line and at least 10 trees per 100 lineal feet along the South property line. He noted a lot of existing trees with as many of those being maintained as possible with necessary additional buffering to be added. With the possibility of a storage area behind the building which will be fenced, he commented that buffering will be added along there, too, so it will not be seen from the highway. When Mr. Campanello questioned the size of the proposed building, Mr. Barker reported it to be 100' by 84'.

In response to Mr. Campanello's question about number of vehicles parked on-site awaiting repair, Tony Chupp, 10115 SR 120, Middlebury, reported the possibility of room for seven or eight vehicles inside the building with approximately that same number stored outside behind the fence.

A motion was made and seconded (*Miller/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** 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 Detailed Planned Unit Development M-1 to be known as ***RITEWAY STATE ROAD 13 DPUD*** be approved in accordance with the Staff Analysis with the following as commitments of the PUD:

1. To maintain the buffer throughout this DPUD life in case they die off, fall off, fall down, or otherwise damaged.
2. Outside storage of units to be only vehicles that are being worked on with the business or waiting to be picked up and not a storage facility, as represented with the fence and screened from the road, limited to seven as presented.

Vote: Motion passed (**summary:** Yes = 6, No = 2).

Yes: Tony Campanello, Roger Miller, Steve Warner, Jeff Burbrink, Blake Doriot, Frank Lucchese.

No: Lori Snyder, Tom Stump.

9. ***Minor Change Request to Move and Add a Sign to the Yoder Logistics A M-1 DPUD Site Plan***

Liz Gunden presented the request for a minor change to a site plan to replace and relocate the business sign.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump that the Board approve this request as a minor change.

Vote: Motion passed (**summary:** Yes = 7, Abstain = 1).

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

Abstain: Blake Doriot.

10. ***Board of County Commissioners Approvals Following Plan Commission Recommendations***

Jason Auvil reported that The Board of County Commissioners heard four petitions on May 16, 2016, which he listed, and they were all approved without any amendments.

11. ***Revisions to Plan Commission Rules of Procedure***

Mr. Auvil reported this was emailed to Board members yesterday with a hard copy provided today of the proposed revision to the Rules of Procedure [attached to minutes as Staff Exhibit #2] due to the new Zoning Ordinance and Subdivision Control Ordinance for consistency. He also noted some of the forms and applications were taken from the Subdivision Control Ordinance and placed in the Rules of Procedure. Attorney Kolbus explained this revision will also allow the Board to make changes as a staff item in the future because the rules allow changes to checklists and application forms to be amended at a public meeting.

Mr. Auvil noted the staff's request that the Advisory Plan Commission adopt the revised version of the Plan Commission Rules of Procedure.

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Blake Doriot that the Board approve the revisions.

Vote: Motion passed (**summary:** Yes = 8).

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

12. There was a discussion about maintenance of subdivision roadways and drainage.

13. A motion was made and seconded (*Doriot/Campanello*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:29 a.m.

Respectfully submitted,

Deborah Britton, Recording Secretary

Steve Warner, Chairman