

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 10TH DAY OF MARCH 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, Steven Edwards, Steve Warner, and Jeff Burbrink. 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/Edwards*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 11th day of February 2016, be approved as submitted. The motion was carried with a unanimous vote.
3. A motion was made and seconded (*Burbrink/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 primary approval of a four-lot major subdivision to be known as **CREEKSIDE RETREAT** (formerly **COUNTRY RETREAT**), for Clarence T. & Ideana G. Yoder represented by Progressive Engineering, Inc., on property located on the southwest corner of CR 36 and CR 41, in Clinton Township, zoned A-1, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #00000CR 41-160129-1*.

Brad Cramer, Progressive Engineering, Inc., 58640 SR 15, Goshen, was present on behalf of the petitioners. He commented that the pond on proposed lot 1 drains via tile to McAllister Ditch through other proposed lots and that mound system perimeter drains for all proposed lots will connect to McAllister Ditch similarly. Easements for this drainage over private property have not been prepared yet.

Mr. Doriot asked whether Mr. Cramer had determined the presence of any other tile. Mr. Cramer's response was that he did have a map "showing where those are" by the appearance of live and dead grass. This map revealed the location of tile across parcel ending -100-007 connecting the pond at north to McAllister Ditch. No written easement yet exists granting the appearance of pond-draining tile on parcel ending -100-007.

Mr. Doriot further asked that a note warning buyers of area agricultural nuisances such as noise, dust, and odor be placed on the plat. Mr. Cramer said such a note appeared already, but Board members could not find it.

Gary Whirledge, 11513 CR 36, Goshen, who farms land surrounding the subject property, warned that area soil is poorly drained, sees standing water, and presents septic system and basement limitations. He noted also that the proposed lots will have to drain across parcel ending -100-006, which he owns, or -100-007, which the west neighbor owns, and that he had not yet been asked for an easement. The best use of the subject property is agricultural, not residential, he said,

though he understood why the Yoders, long-time neighbors, are subdividing.

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

Subdivision is allowed in Elkhart County, and all the county can do to mitigate its effects is require plat notes advising buyers of agricultural nuisances, commented Mr. Doriot. Ms. Snyder asked whether the subject property is within a floodplain, and Board members said no. Mr. Miller said that his concern was over the wetness of the area and the need for mound systems. Mr. Warner asked whether the subdivision process could proceed without drainage easements in place, and Mr. Auvil confirmed that it could not. Mr. Warner then recalled county efforts to warn lot buyers of the problems that result from building "in these types of areas," but Mr. Miller, though he preferred to see agricultural use of the subject property, repeated that the county could not deny subdivision. Ms. Snyder and Mr. Doriot then warned of mound system cost.

At Mr. Doriot's request, Mr. Auvil reread the last paragraph of the Staff Report, and Mr. Doriot asked that the plat state also that basements and crawlspaces are not necessarily suitable, even if the lots are deemed buildable. Mr. Stump asked, however, whether platting guarantees buildability, and Board members answered no. While Mr. Doriot did not want to coddle lot buyers with warnings, he said that buyers experiencing basement problems frequently ask him why they have been allowed to build on wet lots. Mr. Stump related similar experiences having to do with septic systems, observing that buyers invest in their homes but not in functional septic systems, and agreed that buyers must be warned.

Mr. Campanello asked whether the Blount loam water table depth of 6–18 in. was a year-round depth, and Mr. Doriot said it was seasonal.

Mr. Miller held that responsibility for knowing the risks of building on lots such as the subject lots lay with buyers, not builders. Mr. Doriot suggested that responsibility lay with realtors, but Ms. Snyder said that responsibility lay with sellers.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Steven Edwards, that the Advisory Plan Commission approve this request for primary approval of a four-lot major subdivision to be known as **CREEKSIDE RETREAT** (formerly **COUNTRY RETREAT**) in accordance with the Staff Analysis and as presented with the following conditions:

1. That the conflict-in-zoning statement from chapter 1.15 of the Elkhart County Subdivision Control Ordinance be placed on the secondary plat.
2. That a note be placed on the plat that extreme caution should be taken placing any kind of foundation or if contemplating a basement due to high groundwater in the area.

Vote: Motion passed (**summary:** Yes = 7, No = 2, Abstain = 0).

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

No: Steve Warner, Tom Stump.

5. The application for a zone map change from A-1 to M-1, for **Mattamy, Inc.**, represented by Barnes & Thornburg, LLP (Andrew G. Helfrich), on property located on the west side of CR 133, 1,100 ft. north of CR 4, in York Township, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as Case #00000CR 133-160119-1.

Andrew Helfrich, Barnes & Thornburg, LLP, 121 W. Franklin St., Elkhart, who was present on behalf of the petitioner, said that a zoning ordinance violation letter notified the petitioner of the improper use of his A-1 parcels, which he acquired in the mid-2000s. Correcting the Staff Report, he said that the five-acre parcel is used for storage of trailers, not RVs. The storage is related to the nearby business, he further explained, and said that rezoning is necessary so that zone and present use are consistent.

Mr. Miller asked for confirmation that the trailers are kept onsite only until they are moved out and that the storage is not long term. Mr. Helfrich confirmed that the storage was not long term.

There were no remonstrators present.

A motion was made and seconded (*Miller/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** 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 M-1 for ***Mattamy, Inc.***, 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.

* See page 4, item 8; page 4, item 9; page 5, item 10; and page 6, item 11, for the applications for a zone map change from A-1 to R-3 for ***Wilbur E. Yoder & Evelyn J. Yoder, Trustees of the Yoder Fam. Rev. Trust (Land Contract Holders)***, and ***Carriage Investments, LLC (Land Contract Purchaser)***; a zone map change from A-1 to B-1 for ***Jason Brown***; a zone map change from A-1 to M-2 for ***Ronald L. & Jane M. Kauffman, Cotrustees of the Ronald L. & Jane M. Kauffman Trust (owners)***, and ***Myers Trust Real Estate (developer)***; and a zone map change from A-1 to B-2 for ***Kenneth K. Kegerreis Rev. Trust (seller)*** and ***New Punjab, LLC (buyer)***.

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

The Board of County Commissioners acted in accordance with all January 2016 Plan Commission recommendations, approving all January petitions, said Mr. Auvil.

7. ***Minor Change Request to Add a Sign to the Camden Park DPUD Site Plan***

A request for an electrical inspection for an already-built, unpermitted Camden Park DPUD entrance sign has initiated a request for a Plan Commission major/minor change decision, said Ms. Gunden at this time. The sign needs an electrical permit because its interior is lighted, Ms. Gunden clarified for Mr. Miller. Board members agreed that the change was minor.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Blake Doriot, that the above-described change to Camden Park DPUD be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

8. The application for a zone map change from A-1 to R-3, for **Wilbur E. Yoder & Evelyn J. Yoder, Trustees of the Yoder Fam. Rev. Trust (Land Contract Holders)**, and **Carriage Investments, LLC (Land Contract Purchaser)**, on property located on the east side of SR 13 (Main St.), 3,200 ft. north of Orpha Dr., common address of 504 S. Main St. in Middlebury Township, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #504SMainSt-160129-1*, adding that Mark Salee, town manager of Middlebury, has stated that the town is not opposed to the petition. Mr. Auvil added also that the conversion project involves no building additions.

Devon Weaver, Carriage Investments, LLC, 56085 CR 33, Middlebury, repeated from his February 1, 2016, letter of intent the current interior arrangement of the building onsite, which was once used as a bed-and-breakfast. He noted also that Carriage Investments already owns the parcel immediately west of the subject one. The parcel contains a building of five apartments. Mr. Weaver concluded noting that the subject property contains ample parking already; no parking needs to be added.

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** Lori Snyder, that the Advisory Plan Commission recommend to the Middlebury Town Council that this request for a zone map change from A-1 to R-3 for **Wilbur E. Yoder & Evelyn J. Yoder, Trustees of the Yoder Fam. Rev. Trust (Land Contract Holders)**, and **Carriage Investments, LLC (Land Contract Purchaser)**, be approved in accordance with the Staff Analysis and as presented.

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.

9. The application for a zone map change from A-1 to B-1, for **Jason Brown** represented by AR Engineering, LLC, on property located on the east side of SR 15, 720 ft. south of CR 20, common address of 58598 SR 15 in Jefferson Township, was presented at this time.

Ms. Gunden presented the Staff Report / Staff Analysis, which is attached for review as *Case #58598SR 15-160201-1*.

Andrew Rossell, AR Engineering, LLC, 4664 Campus Dr., Kalamazoo, MI, was present on behalf of the petitioner but did not initially comment.

Mr. Miller commented that the subject site seemed like a good place to put a store.

There were no remonstrators present.

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

Mr. Burbrink asked what kind of store would appear on the subject site, and Board members said it would be a general retail store or a Dollar General. When asked directly, Mr. Rossell said, "Yes, it's a similar use to that." He confirmed for Mr. Burbrink that no fuel sales were proposed. Ms. Snyder asked whether grocery sales were proposed, but no response was given.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steven Edwards, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to B-1 for ***Jason Brown*** 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.

10. The application for a zone map change from A-1 to M-2, for ***Ronald L. & Jane M. Kauffman, Cotrustees of the Ronald L. & Jane M. Kauffman Trust (owners), and Myers Trust Real Estate (developer)*** represented by Jones Petrie Rafinski, on property located on the west side of CR 19, 3,500 ft. north of CR 14, and south side of Stainless Dr., 450 ft. south of Beck Dr., in Jefferson Township, was presented at this time.

Ms. Gunden presented the Staff Report / Staff Analysis, which is attached for review as Case #00000CR 19-160201-1.

Kenneth Jones, Jr., Jones Petrie Rafinski, 4703 Chester Dr., Elkhart, was present on behalf of the petitioners. Responding to a query from Mr. Doriot about the presence of regulated drains, Mr. Jones indicated Comstock Ditch, which runs on the east side of the subject property, and the drain on the south side, which he identified as an unnamed Comstock Ditch tributary. Mr. Doriot mentioned “so much problem on the north one there just trying to get a drain out of a loading dock” and warned that putting “something deep in there . . . is going to be hard.” Mr. Jones answered that his clients have been advised accordingly and that “they’re going to put it up in the air or not have it at all.” Mr. Miller and Mr. Doriot both preferred manufacturing over housing on the subject site, however.

Mr. Campanello was concerned that rezoning would invite annexation, but Mr. Doriot said he would rather the city dealt with the water. Ms. Snyder observed and the rest of the Board agreed that city services are available. Mr. Burbrink asked whether visiting drivers would be encouraged “to go out back.” Mr. Jones said yes, but the condition will be temporary. Owners of land immediately west of the subject property will create additional connections.

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** 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 A-1 to M-2 for ***Ronald L. & Jane M. Kauffman, Cotrustees of the Ronald L. & Jane M. Kauffman Trust (owners), and Myers Trust Real Estate (developer)*** be approved in accordance with the Staff Analysis with the following commitment:

1. Any future development must utilize Stainless Drive for access to the site. Access onto CR 19 is not permitted.

Vote: Motion passed (**summary:** Yes = 8, No = 1, Abstain = 0).

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

No: Blake Doriot.

11. The application for a zone map change from A-1 to B-2, for **Kenneth K. Kegerreis Rev. Trust (seller)** and **New Punjab, LLC (buyer)**, represented by Marbach, Brady & Weaver, Inc., on property located on the southwest corner of CR 20 & CR 3, in Baugo Township, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #CR 20 & CR 3-160201-1*.

Chris Marbach, Marbach, Brady & Weaver, Inc., 3220 Southview Dr., Elkhart, was present on behalf of the petitioners and specified first that though the buyer will acquire the entire subject tract, parcel ending -427-002, the buyer presently seeks only to rezone a 3.5-acre piece of it at the southwest corner of CR 20 and CR 3, as a plan for the remnant has not been determined. Mr. Marbach then indicated the buffer distance, approximately 400 ft., between the area to be developed and the mobile home park at west and the distance, approximately 750 ft., between the area to be developed and the residential subdivision at south. He also indicated the existing manufacturing zones at north, northeast, and east.

Mr. Marbach then clarified for Mr. Burbrink that the only east-side parcel that the buyer will not purchase is the one at center, with parcel number ending -427-004.

There were no remonstrators present.

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

The subject site does not seem like an appropriate one for business or housing, commented Mr. Miller, who called the subject area transitional. He asked whether the site to be purchased contained only one house, and Mr. Marbach responded by indicating the two houses on the west side of CR 3 and the business immediately south of the southeast corner of the site.

Ms. Snyder asked whether buffering for protection of the mobile home park at west and the residential subdivision at south will have to remain at the time of the remnant piece's rezoning, and Mr. Marbach answered that it will unless remnant development is residential. The buyer has considered storage unit development for the remnant piece, he said.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steven Edwards, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to B-2 for **Kenneth K. Kegerreis Rev. Trust (seller)** and **New Punjab, LLC (buyer)**, 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.

* See page 2, item 7, of the March 10, 2016, Elkhart County Plat Committee minutes for **Premier Hardwoods: Major/Minor Site Plan Amendment**.

* See page 3, item 8, of the March 10, 2016, Elkhart County Plat Committee minutes for ***Hoover Feed Service: Major/Minor Site Plan Amendment.***

12. A motion was made and seconded (*Miller/Burbrink*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:15 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman