

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 12TH DAY OF MAY 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, Tom Stump, Lori Snyder, Steven Edwards, Steve Warner, and Jeff Burbrink. Roger Miller 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 14th day of April 2016, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Doriot/Lucchese*) 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 a zone map change from A-1 to M-1, 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, was presented at this time.

Ms. Gunden summarized the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0079-2016*, and noted that the petition had been withdrawn, referencing a May 3, 2016, letter from Brads-Ko Engineering & Surveying, Inc.

No representative was present on behalf of the petitioner.

No public hearing was opened.

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 the withdrawal of this request for a zone map change from A-1 to M-1 for **Big M, Inc.**, without prejudice.

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.

** It is noted that Mr. Lucchese and Ms. Snyder stepped down at this time due to potential conflicts of interest.*

5. The application for a zone map change from R-1 to Detailed Planned Unit Development R-3 to be known as **EDGEWATER CONDOMINIUMS DPUD**, for the Board of Commissioners of the County of Elkhart (seller) and Edgewater Condominiums, LLC (buyer), represented by Jones Petrie Rafinski, on property located on the east end of Sunset Lane, north of Lagoon Road and Susquehanna Road, 1,300 ft. north of SR 120, 500 ft. west of CR 17, common address of 22053

Sunset Lane in Osolo Township, was presented at this time.

Ms. Gunden presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0074-2016*.

Ken Jones, Jones Petrie Rafinski (JPR), 4703 Chester Dr., Elkhart, was present on behalf of the petitioners. The Board of County Commissioners, he said, would like to move the subject parcel, acquired during bridge construction, back into the tax base. The site will contain a total of eight owner-occupied units, 1,800–2,400 sq. ft. each. Each unit's garage will accommodate two vehicles, but some outside overflow parking area is planned. No basements are planned; the buildings will observe floodplain standards; and eight docks, one per unit, and a seawall will be constructed. The site will connect to municipal sewer and water.

Covering deviations from development standards, Mr. Jones said that an east-property-line building setback of only 1.4 ft. and a south parking setback of only 5 ft. from the right-of-way edge are requested. Parking close to or over the right-of-way edge is typical for the neighborhood, he said. Permission to construct wide driveways, as shown on the support drawing, is also requested. The east driveway's extra width obviates a third driveway just for service of the development's dumpster.

A 20 ft. easement on the east side of the east property line, within CR 17 right-of-way, is also requested, noted Mr. Jones. The easement will enable tree plantings and construction of a segment of the development's east sidewalk not possible within the east building setback. Mr. Godlewski clarified that the Board of County Commissioners is the grantor of right-of-way easements and driveway variances.

In response to Mr. Doriot, Mr. Jones said that the berm along the west side of CR 17 reaches a height of 9 ft. above the subject property's east edge. He noted also that while the north and south sides of the buildings will look nice and feature south-central courtyards, the buildings are river oriented. The courtyards will drain via permeable pavement to a mild north retention area. In further response to Mr. Doriot, Mr. Jones said that the buildings, which will be set back from the water's edge, will not block any nearby resident's river view.

Mr. Stump, aware of an unsuccessful past private bid for the subject property, asked Mr. Jones what happened between the time of the bid and now. Mr. Jones knew only that a house on the subject property was demolished following the county's acquisition of the site.

Mr. Campanello asked whether the roads between Sunset Ln. and SR 120 were adequate, and Mr. Jones said they were.

Rob Wirt, 22059 Sunset Ln., Elkhart, whose home was built before today's minimum finished-level elevation was established and whose property sees flooding because of runoff from Sunset Ln. and the modern home immediately west of his, asked that a water-diverting swale or creek bed be constructed along the subject site's west property line.

Welcoming Mr. Wirt's cooperation, Mr. Jones said he would take the request into account and might visit the site with Mr. Wirt. He said he was obligated to control stormwater and wanted to avoid impacting neighbors.

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

Mr. Stump asked whether the new development would interfere with drainage of the undeveloped wet area immediately south of the subject property. Mr. Jones said that he found no pattern of stormwater release from the referenced area across the subject site and that the referenced

area probably releases stormwater into the water table.

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 recommend to the Board of County Commissioners that this request for a zone map change from R-1 to Detailed Planned Unit Development R-3 to be known as **EDGEWATER CONDOMINIUMS DPUD** be approved in accordance with the Staff Analysis.

Vote: Motion passed (**summary:** Yes = 6, No = 0, Abstain = 2).

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

Absent: Frank Lucchese, Lori Snyder.

** It is noted that Mr. Lucchese and Ms. Snyder returned at this time.*

6. The application for a zone map change from General Planned Unit Development E-3 to Detailed Planned Unit Development E-3 and for primary approval of an 8-lot subdivision to be known as **ELKHART EAST AREA "F" DPUD**, for Ludwig Investments, Inc., represented by Jones Petrie Rafinski, on property located on the southeast corner of CR 6 and CR 17, in Washington Township, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0075-2016*.

Ken Jones, Jones Petrie Rafinski (JPR), 4703 Chester Dr., Elkhart, was present on behalf of the petitioner. Northland Corp., developer, was at the core of the group that assembled Elkhart East during interchange development and has probably developed more Elkhart County business park acreage than any other developer, began Mr. Jones, calling attention also to Northland's history of offering and meeting commitments. Other Elkhart East projects that JPR has completed but are not mentioned in the Staff Report include area B and a first phase of area E, which contains the RV hall of fame.

Mr. Jones then reminded the commission that Elkhart East was the first county development planned for the E zone, a zone intended for application to gateway areas. Elkhart East was not carelessly planned but "set the bar" for county business park development, benefiting from consultation from a Chicago firm with large-scale urban development experience and a South Bend traffic master planner. Area F, Mr. Jones assured, will see the same commitments as those proposed in 2000 and will add value to the area.

The landowner and the developer have recently removed fuel center and convenience store from available uses on the subject property, Mr. Jones then stated. He also assured that the developer will be held to the site concept proposed at GPUD approval in 2000. The north half of the property will see retail uses, and the south half will see lighter, professional-office uses.

Directing commission attention to a slide presentation [*attached to file as Petitioner Exhibit #1*], Mr. Jones indicated the CR 6 and CR 17 access points, which are under highway department design. The individual lots will have no direct CR 17 access but will be accessed via an interior east road, three lanes wide with curb and gutter and west sidewalk. No pedestrian bikeway is planned.

Covenants already controlling all of Elkhart East, including area D, will control area F. The county's "front door" has to look good, Mr. Jones said. Drainage will be built to observe county standards and will include bioretention.

Turning his attention to buffering, Mr. Jones indicated the 20 ft. offset between the interior

road's east curb and the east property line, "which will allow us to do some things." Photos in the slide presentation, however, demonstrated significant existing pine growth along the north half of the east property line. Mr. Jones also noted platted easements along the west side of the adjoining subdivision, shown on the DPUD site plan / support drawing. Existing tree growth east of proposed lots 5-8 is sparser than that east of proposed lots 1-4, Mr. Jones did say, in agreement with staff note 3 on Staff Report page 6c. He renoted, though, that lots 5-8 will see "softer" uses.

Mr. Doriot asked when Pine Brook, the adjoining subdivision, was developed, and Mr. Jones and unidentified audience members gave years in the late 1990s.

Mr. Jones continued, mentioning new lighting planned as part of a county improvement project for the intersection of CRs 6 and 17, and said that lot owners will be responsible for site lighting, subject to architectural control committee approval. Elkhart East's own covenants covering lighting are more restrictive than city and county lighting standards, he said.

Returning to buffering, Mr. Campanello asked whether the area of sparse tree growth would be added to before construction, and Mr. Jones said it would. Mr. Campanello further asked how many stories new buildings were limited to, and Mr. Jones said the buildings would observe county E-3 standards, which limited the number to three, he believed. The new buildings will probably have no more than two stories, Rob Letherman, Northland Corp., PO Box 1322, Elkhart, then said, as area E has been the locus for bigger office buildings.

Mr. Jones did not want restaurants with high-capacity drive-throughs, like McDonald's and Hardee's, to occupy the north lots, but said also that drive-throughs like those of Starbucks and pharmacies should not be eliminated, and expressed willingness to discuss the subject.

Work will begin as soon as possible, Mr. Jones concluded.

Janis Lake, 53229 Pine Brook Dr., Bristol, displayed 2009 photos showing standing water at the back of her property, evidence of existing poor drainage, and asked what would be done about it. The Al Ludwig-designed, board-approved Pine Brook mound, she said, has developed sinkholes, and she planted trees in the back of property with hopes of living near a quaint town center, not a busy road. New development on the west side of CR 17 has been a source of trash appearing in Pine Brook yards, and sign lighting should be turned off at a certain time, she also said.

Mrs. Lake further held that the retention area at the rear of her property was improperly built, and wanted to prevent the new development's runoff from worsening the problem and affecting area septic systems. Calls to various local and state departments resulted in installation of a piping system to address a "quicksand effect" in the retention area, but existing retention area problems persist.

Mr. Doriot noted that the retention area at question was within the Pine Brook subdivision and thought that over the years the area had become stopped up with landscaping topsoil brought near it by homeowners. Mrs. Lake's response was that a lot of people were unaware of the presence and purpose of the retention area, and displayed other photos showing debris in it.

Morgan Merchant, 53427 Pine Brook Dr., Bristol, pointed to vacant lots at the southwest corner of the subdivision, the site of a natural spring responsible for high area water level. Any area retention feature will be constantly full of water, then, unless an aerating fountain is installed, he said.

Nancy Catanzarite, 53089 Pine Brook Dr., Bristol, said that several pine trees planted on her property's segment of the mound during its construction have since died or been trimmed because of poor health. She thus has no barrier and worried about semi and business noise, and she wanted

to know what new barrier would be used. Ms. Catanzarite then submitted a printout advertising a sound fence she wanted the commission to consider *[attached to file as Remonstrator's Exhibit #1]* and held that tree installation was only a temporary solution.

Patricia Gaither, 53460 Pine Brook Dr., Bristol, who said that lots on the east side of Pine Brook Dr. drain to the west-side retention area, expressed concern over what would arrive at the retention area from the new development and how it would affect groundwater at the east side of the subdivision. She also appreciated Mr. Jones's recognition of the absence of buffering trees along the south half of the subject property's east line.

Ms. Gaither further mentioned the volume of existing CR 6 traffic because of its service of both Pine Brook and Pheasant Ridge and asked that water generated by construction of a new CR 6 entrance to area F be kept from reaching Pine Brook's retention area, hoping, however, that no new CR 6 entrance would be approved. She hoped also that new restaurants would not be open late or during "odd" hours, and she said, without detail, that she was concerned about property values.

Dolane Larson, 53137 Pine Brook Dr., Bristol, repeated above concern over trash and said that her house is visible from CR 17 despite the presence of buffering pine trees at the rear of her property. Neither do they serve as a sound barrier, she said. CR 17 noise and lighting have affected Pine Brook residents' quality of life, Ms. Larson added, and a sound barrier should be erected if the development is approved. Increased CR 6 density will endanger those who cross CR 6 to reach the trail appearing on Elkhart East property immediately north of Pine Brook, she concluded.

Mike Wood, 53013 Pine Brook Dr., Bristol, asked why the county wanted to attract extra traffic to an intersection that westbound CR 6 drivers rush through before light changes and that sees evening and early-morning backups. He hoped that the new development would be designed not to add to area traffic and worried that new businesses open late would attract a lot of traffic.

Mr. Jones responded first by clarifying that all retention area problems cited by Mrs. Lake are existing problems within the Pine Brook subdivision and that the retention area was not constructed by Al Ludwig. Aware of the sinkhole problem, Mr. Jones said that aging retention ponds, which require maintenance, usually appear within easements that homeowners see as their own land and place yard waste in. Repair of nonfunctioning retention areas is the responsibility not of the county drainage board but of affected homeowners, he said. He could not say, at Mr. Doriot's asking, what the area's seasonal high water table was, but he did say that JPR would have to prove that area F's retention pond would work. Retention planning practices have improved since 1995, he added, and JPR is expected not to construct retention that will affect the area water table or neighboring properties.

Referencing again his slide presentation, Mr. Jones then showed a CR 17 view of the rear of Ms. Catanzarite's lot, acknowledging the tree trimming but with doubt that the trimming affected buffer effectiveness. He also thought the noise already generated by CR 17 would exceed that generated by new businesses at area F and did not think JPR could do anything to change this.

Addressing Ms. Catanzarite's suggestion, Mr. Jones said that JPR is not in favor of sound barrier installation, and addressing Ms. Gaither's concerns, he said that the highway department has planned for a CR 6 access point for area F since 2000 development of a traffic master plan. A westbound left from area F onto CR 6 will be prohibited by means of a median barrier, he added.

Highway department study, Mr. Jones then explained for Mr. Stump, found that no signal is yet needed for area F's CR 17 access point. The access point will be made ready to receive later signal installation, however.

Moving on to Ms. Gaither's concern over business hours, Mr. Jones expressed discomfort with any commitment to hours. Desired businesses like restaurants and pharmacies maintain hours set for the convenience of customers, he said. He did, however, share remonstrator concern over trash blowing into subdivision yards.

Moving on to lighting, Mr. Jones said that applicable standards require downward direction of light that goes to "zero level" at the property line, but emphasized that JPR has no control over lighting that will be generated by upcoming CR 17 installations.

A remonstrator who did not reidentify herself then returned to the podium and expressed worry over the effect on groundwater of the placement of area F's retention basin in an area of low elevation, and asked Mr. Jones whether he had a timeline for "completing the berm and planting more trees on that." This year, he responded. In further response to the remonstrator, he said that though the CR 17 and CR 6 access points are approved, road design itself is not yet approved. The remonstrator further held that drivers exiting the north side of area F and forced east on CR 6 will use subdivision entrances on the south side of CR 6 in preparation to drive west on CR 6 and approach CR 17. Mr. Campanello said that the highway and police departments would have to respond to the concern. The remonstrator asked finally that a berm preventing area F runoff from reaching the Pine Brook retention area be constructed. Mr. Jones gave assurance that water would not go from area F streets to Pine Brook properties.

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

Mr. Doriot restated Mr. Jones's above assurance that retention standards have improved since Pine Brook's development, and Mr. Campanello suggested that trash appearing in Pine Brook yards originates not from development on the west side of CR 17, whose waste is confined, but from CR 17 vehicles carrying and losing material. Ms. Snyder did not think area F development would affect Pine Brook home values and said that young homebuyers presently are seeking homes both in country settings and near amenities. She seconded concern over traffic increase, however.

Mr. Burbrink asked whether JPR would replace trees on the Pine Brook mound. With preference not to replace trees, Mr. Jones found the mound, bare in many places, the most appropriate location for tree plantings, and confirmed that such work would have to be done on Pine Brook homeowners' land.

Calling attention again to his slide presentation, Mr. Jones then displayed photos of an 8 ft. barrier fence erected to separate Walnut Trails lots from a Cobblestone Crossing funeral home and offered to place a similar one along area F's east property line. The nice-looking side of the fence would face Pine Brook, the fence would block trash, and work on Pine Brook properties would be avoided. Mr. Jones cautioned, though, seconding Ms. Snyder's amenities comments, that Pine Brook residents would eventually ask for a fence opening. Mr. Doriot and Mr. Campanello then agreed that no barrier fence as described should be built, and Mr. Jones's response was that even though homeowners whose lots are to receive tree replenishment must consent to workers' appearance on their properties, the existing mound should continue to see its intended use—homeowner protection—and no further protections should be built along the west side of area F's east property line.

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 General Planned Unit Development E-3 to Detailed Planned Unit Development E-3 and for primary approval of an 8-lot subdivision to be known as ***ELKHART EAST AREA "F" DPUD*** be approved in accordance with the Staff Analysis and as presented.

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.

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

The Board of County Commissioners in April 2016 acted in accordance with all March 2016 Plan Commission recommendations, approving all March 2016 petitions without modification, said Mr. Auvil.

8. ***Major/Minor Change Determination: Bristol Park for Industry, Phase 2A, DPUD M-1 Amendment, Lot 1***

Mr. Auvil first confirmed that the proposed 21,600 sq. ft. addition does not appear on the 2013 DPUD site plan. He further said that the addition will impact no residential areas and that the commission has in the past pronounced similar changes minor. A letter of support from Bristol's town manager has also been received.

The commission examined the request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Tom Stump, that the above-described change to Bristol Park for Industry, Phase 2A, DPUD M-1 be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

9. ***Subdivision Control Ordinance Public Hearing: June 2016***

Referencing April 2016 Plan Commission discussion over Subdivision Control Ordinance amendments, Mr. Auvil asked that the commission set a new public hearing date for June 2016.

The Board examined Mr. Auvil's request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Frank Lucchese, that the Advisory Plan Commission consider the Subdivision Control Ordinance amendments summarized in April 2016 during a June 9, 2016, public hearing. The motion was carried with a unanimous vote.

10. A motion was made and seconded (*Stump/Edwards*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:40 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman