

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 10TH DAY OF NOVEMBER 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. 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.

Roll Call.

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

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 13th day of October 2016, and September 8, 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 a Zone Map Change from a 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., Ptr. represented by Jones Petrie Rafinski, on property located on the Southwest corner of CR 6 and CR 10, in Cleveland Township, zoned A-1, B-3 DPUD, GPUD, R-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0538-2016*.

Ken Jones, Jones Petrie Rafinski, 4703 Chester Drive, Elkhart, was present representing Pecan Plantation. He recalled back in 1999 there was an extensive discussion on a mixed use development that occurred then, which took place during the time the County was developing the revamp of the Planned Unit Development process. This was one of the very first Planned Unit Developments that was done, and it did include the mixed use development. The residential subdivision along Crystal Pond Drive was discussed during the same meeting/presentation. This corner, along with the strip along CR 6, had been considered an ideal situation for a neighborhood business development; and over time, it has been paired back to the use of a new convenience store. Mr. Jones reported there had been some work and conversation with the Elkhart County Highway Department about the second entrance on CR 10, and noted Jones Petrie Rafinski and the Elkhart County Highway Department were concerned about a traffic island on the Southeast corner of the intersection. Mr. Jones pointed out where the location of the concern was, which could lead to traffic going through the intersection where they did not want them to be. The new approach would render the access point into a right in/right out only. Mr. Jones reported the Elkhart County Highway Department has approved that configuration, but they have some minor revisions to be made in the final design. He went on to say, that this is a site plan support drawing he is using to

show the Board. He noted the second access point which is on CR 6 is basically the same as originally approved in 1999. He went on to say that PUD Ordinance did include the provision of two access points. Mr. Jones stated the 1999 approval did not show any turning movement control at the intersection as the intersection had not been constructed. One thing that has changed since 1999 is the technology that is available to operators in settings and businesses like this has continued to elevate. Even in 1999, there were concerns relative to Crystal Pond. He reported this site is a former barrow pit that sat fallow for many years before the development occurred on the residential subdivision which could not move forward until the sewer and water were brought to the intersection. With the installation and construction of convenience stores, Mr. Jones stated there is always concern from neighboring property owners about the presence of petroleum and what is being done to protect it. The State and Federal regulations continue to ramp up, therefore the technology has to ramp up too. Mr. Jones noted there are plans for underground storage tanks that are double-walled for built-in containment, which is state of the art. Also incorporated for the storm water feature, are oil, fuel, and water separators, which will be required by the storm water management plans. Those will be state of the art as well. Controls regarding delivery and dispensing of product will also include all the emergency contingencies that are required by State and Federal law. Mr. Jones reported Jones Petrie Rafinski does not have any concerns relative to use on this property. Regarding water table, he reported they investigated through a soil scientist whose opinion is that the seasonal high water table is related to the pond which is the same as it was in 1999. Northwest Cleveland Township is sand and gravel and the soil profile does show some historic staining, which it does not mean as much as what human encroachment has done on this site. The pond is really the controlling factor. Mr. Jones reported Jones Petrie Rafinski is confident the storm water features will work, and noted they are working fine in a nearby facility. Mr. Jones reported Jones Petrie Rafinski believes this will be a benefit to the neighborhood.

When Ms. Snyder asked to be shown on the large map where the access will be, Mr. Jones showed a location west of CR 10 on CR 6 and another south of CR 6 on CR 10 near the existing drive for the lift station. Ms. Snyder questioned if the soil is fit to expand residential because of the water table. Mr. Jones stated he believes it is fit for residential, but noted homes SW of CR 10 have no basements. Ms. Snyder stated she was curious why it was not extended out for residential. Mr. Jones indicated the original developer zoned the parcel DPUD B-2, and it was always felt the subject property and to the west was considered business, not residential. Mr. Miller questioned the soil levels on the drawing and where the "severe" is located, which Mr. Jones noted on the Northwest corner of the site. Mr. Doriot questioned the double-wall tank and how they work. Mr. Jones reported it is designed to provide containment to 100% of the material in the tank if it gets outside of the first tank. The current standard has a requirement for annual reporting/testing. The owner has to test for intrusion into the second space, which must be tested every year and reported. Today those standards must be met. Mr. Miller questioned about the indicators on the outside wall of the tank that would set off an alarm. Mr. Jones stated there is always an emergency system on site that would allow even a passerby to shut off the system. Ms. Snyder questioned if all the homes were on city water and sewer, which Mr. Jones reported that Crystal Pond is, but he does not believe any of the others are.

Jacqueline Bennett, adjacent property owner, 29838 CR 10, Elkhart, was present. She questioned the location of the tanks. Mr. Jones indicated up in the Southwest corner of the intersection. Ms. Bennett stated she does not want overnight truck parking. She reported she is the only one in the area that has a basement. She went on to say, she does not want to battle traffic

entering/exiting on CR 10. Ms. Bennett advised she is concerned about contamination of the pond that attracts wildlife and does not want to live next door to a convenience store that brings in riff-raff. She noted there are already traffic problems, and there was a traffic accident there yesterday. She reported she does not see what it will bring to the community and is concerned about negative impact. She advised she was never contacted about possible questions about the project.

In response, Mr. Jones indicated a past history with the Yoder Company and family. He believes they will be a good neighbor. He also stated he does believe the proximity of Ms. Bennett's home site to the operation does deserve some consideration. He advised he will make sure Mr. Yoder is aware and will ask him to speak with Ms. Bennett directly. Mr. Jones reported Mr. Yoder could not be present today due to a conflict. Mr. Jones indicated he felt comfortable he could tell Ms. Bennett that there is no plan for a truck stop at this location. He noted he does not believe that there will be much semi truck traffic at this location. He stated he believes trash is a valid concern, and he will express that to Mr. Yoder. He suggested something can possibly be built into the site, like a fence along the property line. Regarding additional traffic, Mr. Jones indicated, in this type of retail, it will not attract additional traffic but draw in the existing traffic. Typically there is not a significant increase in traffic. Mr. Campanello questioned a fence and the buffer between Ms. Bennett's property and the site. Mr. Jones stated the Elkhart County Zoning Ordinance is very specific about buffering requirements on the site, and may be able to elevate buffering so it exceeds the requirement. Mr. Campanello questioned if that would include the fence, which Mr. Jones reported that a chain link fence could be incorporated if that would help Ms. Bennett. Mr. Campanello also questioned if the hard surface run-off will be contained on the site and if there is any way it will reach the pond and leach into that area. Mr. Jones stated they are not considering even a small release. All of the storm water will have to pass through the separator before it goes into their retention, which is a requirement. Mr. Jones added a consistent record and reporting relative to the servicing of that structure. Mr. Jones reported all of that material has to go through their system. Mr. Campanello noted he is concerned about leaking antifreeze, oil, and build up. Mr. Doriot noted Ms. Bennett questioned about trucks being parked over night. Mr. Jones stated there is no room on the site for over-night truck parking. Beyond the parking area, it is all a green area; there is no paved parking behind the building and everything else is a turning radius and parking for cars. Mr. Jones stated he would assume the store manager would require them to leave as it would snarl the traffic flow on the site. Ms. Snyder questioned Mr. Auvil about the zoning across CR 10, which Mr. Auvil reported to the North is A-1 and to the South is DPUD A-1 and DPUD R-1, to the East is A-1, and to the West is A-1. Mr. Auvil stated it was M-1. Ms. Snyder questioned what the zoning is on the corner and across the street with a big building, which Mr. Auvil stated probably A-1. Mr. Burbrink stated it is a power substation.

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

Mr. Stump questioned staff if current zoning allows a convenience store. Mr. Auvil reported currently it is GPUD, General Planned Detailed Unit Development; which means the concept has been approved since 1999. Now they are asking for Detailed Planned Unit Development to build what the concept had requested. Mr. Stump stated he would think neighbors would want a fence besides the buffering. Mr. Miller indicated the fence noted on drawing. Mr. Miller noted he appreciated the dumpster is to the west side away from the houses.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Jeff Burbrink, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone Map Change from a General Planned Unit Development B-3 to Detailed Planned Unit Development B-3 to be known as Yoder Oil Detailed Planned Unit Development 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.

5. The application for a Vacation of Dedicated Right of Way known as Wind Wood Court, Tori Fehr represented by Remax 100, on property located in Wind Wood Subdivision in the Town of Wakarusa, in Olive Township, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0530-2016*.

Mr. Campanello questioned why the remainder of the lots were not constructed. Mr. Auvil indicated he does not know.

Chad Martin, Remax 100, 211 E. Wabash Avenue, Wakarusa, was present representing the petitioner who wants to vacate the Right-of-Way because homes have access to Sunset Court/Street, and she would like to resurvey the property to sell. Mr. Campanello questioned if this was bought from the original developer, which Mr. Martin stated yes. He reported at some point there was some resistance from surrounding residents and the developer decided to vacate the subdivision and sell off the entire property. Mr. Doriot confirmed that the subdivision was vacated; the roadway was not. Mr. Martin reported the subdivision was vacated but the roadway was not because at the time she was not aware she had to do the roadway also.

Derek Odiorne, 109 Sunset Court, adjacent property owner was present. He expressed concern about how the land is divided up of the road and cul-de-sac. He stated his understanding is that it is divided between the two adjacent properties, and he wanted to make sure that is recorded in the minutes. Mr. Doriot reported the property is divided equally to the property that it came from, which Attorney Kolbus confirmed. He went on to explain the new property line would come to center of subject property/Right-of-Way.

After roadway is vacated, Mr. Martin stated the petitioner is planning to re-survey and give Mr. Odiorne more than his portion to square off his lot more and to keep the fence within his property.

A motion was made and seconded (*Burbrink/Warner*) 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** Jeff Burbrink, **Seconded by** Steve Warner, that the Advisory Plan Commission recommend to the Wakarusa Town Council that this request for a Vacation of Dedicated Right of Way known as *Wind Wood Court* 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.

Mr. Campanello questioned how to keep one house being built at back of the subdivision and then it falls apart. He noted there could have been soil problems in this area. Mr. Doriot said lots can be vacated and Right-of-Way kept if desired. Mr. Doriot suggested staff in the future could ask if the Right-of-Way remain there or do you want it vacated. Mr. Campanello stated the aerial photo does not look like the plat.

6. The application for an Amendment to a Detailed Planned Unit Development known as *Love's Elkhart DPUD*, for Greenfield Corp. (seller) and Love's Travel Stops & Country Stores, Inc. (buyer) represented by Ceso, Inc., on property located on the West side of CR 17, 1,800 ft. North of CR 18, South of US 20 Bypass, in Concord Township, zoned B-3 DPUD, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0583-2016*.

There were no remonstrators present.

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

Mr. Miller questioned why the monument signs are being changed. Mr. Auvil stated the Redevelopment Commission provided funding to provide gateway entrances into Elkhart County. Because of the exit off of US 20, Mr. Auvil reported the Redevelopment Commission requested Love's to mirror the entrance way, located on CR 17 at I-80. This makes the sign a little nicer and neater. Love's has gone above and beyond the landscaping standards, but in part of the negotiations the Redevelopment Commission asked for some more trees and Love's was very agreeable to that.

Mr. Campanello requested it be noted that the cul-de-sac will be opened up to a road at some point and there will be truck traffic up and down CR 18. He also stated the Highway Department is not very smart to have approved it. Mr. Doriot stated Redevelopment wanted a different sign to fit into their vision of the entrance ways.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Tom Stump, that the Plan Advisory Commission recommend to the County Commissioners that this request for an Amendment to a Detailed Planned Unit Development known as *Love's Elkhart DPUD* 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.

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

Mr. Auvil reported that on October 3, 2016 the Town of Middlebury approved the rezoning petitions for Joy Hardin and the Kropf Family.

The following petitions were acted upon on October 17, 2016 by the Board of County Commissioners

1. Traco LLC, rezoning from A-1 to R-1 was denied.
2. James & Retha Yoder, rezoning from A-1 to B-1 was denied.
3. Ryan Sensing, rezoning from A-1 to GPUD A-1 was approved.
4. Jayco, rezoning from A-1 and M-2 PUD to M-2 was approved.

8. **Staff Item/Farm Bureau/12 months waiting period**

Dwight Moudy, 26894 CR 46, Nappanee, was present on the behalf of Farm Bureau and the farmers of Elkhart County. He stated the concern is restriction of personal property rights of land owners in Elkhart County. It is not in the best interest to set a time limit to divide property. This was gone through in 2009 and seven years later, there are changes again. If the property owner or farmer has economic difficulties, by limiting how often the ground can be split off, it could doom them to failure to sell off the whole farm. The timing of this issue is the biggest concern, because the busiest time is April/May and October/November. It is very difficult to get the farmers to speak to this issue when they are in the field trying to make a living. Mr. Moudy indicated they do not feel this is appropriate, and it should have not been changed. He reported he has seen the proposal for 24 months and feels the 12 months is too much. If a farmer needs to split off ground, they should have the right to do what they want with their property.

Jim Weber, 57564 CR 115, Goshen, was present as a farm owner, in Concord Township. He reported things are tightening up for the farmers. He is concerned about the possible need to make more than one split in less than 24 months in order to save the operation. Mr. Weber reported the ratios at the lenders with regard to the status are affected. He stated he was recently at an agri-business where they had a new tractor and when he inquired about it, he was informed it was taken in lieu of a bill because it was the best way out. Mr. Weber noted he was informed by an individual who stated he had a conversation with a farmer at church that his payments, went to Farm Credit Services, when normally he would have had more control of those payments and now he is in a bind with the landlord. He stated there are things that are happening right now that are causing the financial situations on the farms to get a little tighter and believes it is not a good idea to be messing with the farmer's ability to divest themselves of some of their equity in order to keep the farm going.

Also present was Attorney Loren Sloat, 102 Heritage Parkway, Nappanee, who was alerted yesterday of this possible change to the Ordinance and attempted to contact Attorney Kolbus to get up to date. He noted he found on-line that the Ordinance was passed in July 2016, does not talk about this time period. He also found the proposed changes on-line for the October meeting. Attorney Kolbus informed Mr. Sloat that the Plan Commission does not pass Ordinances. Mr. Kolbus reported the County Commissioners have not acted on this, this is a Subdivision Ordinance. The one in July was Zoning Ordinance. This would go to Commissioners in two weeks as the Plan Commission made a recommendation at the October meeting. Mr. Sloat indicated he had done some quick research in the office this morning. It is clear from a case law that a Zoning regulation of property may be considered a government taking if the regulation goes too far, which is the concern. Mr. Sloat reported the Supreme Court identified two categories of regulations that

constitute per say taking. The first of that category is to compel a property owner to suffer a physical invasion no matter how minute his property. Secondly, a regulation that denies all economically beneficial or productive use of land. Mr. Sloat stated banks are not going to wait that long if they have to sell off one three acre lot every 12 months. To sell off the land is a safety net, life insurance policy for the farmer. His concern is this is going too far. Mr. Stump mentioned another option was to subdivide the three acre pieces, and then you can sell as many three acre pieces as you wanted. Mr. Campanello noted there would be a cost to subdivide and questioned why it cannot be taken off piece by piece without going through the expense of the subdivision. Mr. Stump stated he did not know and questioned the expense to do it. Mr. Doriot noted for a three acre tract or larger, the cost is \$600-\$1,200. A Minor Subdivision would be \$2,500 to 3,000 and take 60 to 90 days. Staff review is typically 10 days, but may take longer. The Administrative Subdivision does not require a Right-of-Way dedication. The Minor/Major Subdivision requires the first 40 ft. given to the county as Right-of-Way. In doing that, if the Highway Department and the Commissioners want to widen the roadway, the Highway Department does not have to pay for land taken. If requiring different time spans to do something, this rises to that level while requiring someone to give property so someone can enjoy the balance of their property. Mr. Doriot indicated he believes that is taking. Mr. Stump brought up the driveway issue and questioned if all require driveway permits. Mr. Doriot stated they all will require a driveway permit, and that is approved through the Elkhart County Highway Department. Mr. Stump questioned Mr. Doriot if there is any reason for a refusal of a permit, and Mr. Doriot reported site distance or too close to an intersection. Mr. Stump noted that would occur regardless, and asked who controls the type of subdivision. Mr. Doriot stated one to three lots is a Minor Subdivision; a Major Subdivision is more than three lots. Attorney Kolbus noted the Right-of-Ways come from the Highway standards; it is the Subdivision Ordinance that tops by reference. Mr. Burbrink questioned if there has always been an Administrative Subdivision. Mr. Doriot noted the Administrative Subdivision was put into effect when the new Administrative Subdivision Act was done. This was to allow more oversight on the larger tracts than the normal "cut and go". The Minor Subdivision has even more oversight and when you go below the three acre size, it starts conflicts with septic and pools similar to the conflict from the A-1 Subdivision to the R-1 Subdivision. Mr. Burbrink noted the advantage of the Administrative Subdivision is there is no hearing. Ms. Snyder questioned if builders were included in the discussion. Mr. Godlewski clarified that the existing Administrative Subdivision said only one can be done. He noted this says, for additional Administrative Subdivision, you must wait the time period. Mr. Stump questioned why the staff wanted the waiting period. Mr. Godlewski noted the current ordinance stated you cannot do any additional, the new ordinance would allow it with a 12 month waiting period. Mr. Doriot stated past history is not limiting. Mr. Godlewski stated there was no consistency. When Mr. Campanello questioned if land owners have been taking advantage of that, Mr. Godlewski stated yes. Mr. Campanello stated he is trying to figure out what the issue is with the staff. Mr. Doriot indicated the staff is reading it as only one, but since the Subdivision Ordinance has been passed you could do one to three as long as you meet the Administrative Subdivision standards. Now the interpretation is you can only do one, and any more there will be a limit to one every year. The way it has always been in interpreted and the staff has been interpreting it is if you want to sell one off your North road and one South of your house you could do that. Mr. Miller questioned if the reason for doing this was to keep people from chopping off parcels. Mr. Godlewski reported it was not clarified to remove choices. Mr. Miller questioned if that were to be put in would it give someone the right to do that. Mr. Godlewski stated if the time period is taken

out completely that means you could do several Administrative Subdivisions. Mr. Sloat questioned if this is one per parent parcel, which Mr. Godlewski stated yes, adding another option but the time period is in place. Mr. Auvil noted it could also be looked at as protecting property. He believes the mandatory shared driveways will be enforced because all road frontages are gone. Mr. Campanello questioned what other counties are requiring those. Mr. Auvil stated Kansas, Nebraska, Iowa, and there are many counties in Indiana. The purpose of the Administrative Subdivision is also issuing a building permit at the same time to put some checks and balances in place. There have been problems with some subdivisions like Zollinger Road. He went on to say that shared driveways require easements and maintenance agreements which cause all kinds of issues. Mr. Campanello suggested the Highway Department has too much power. Mr. Doriot reported under statute the Highway Department does not control access. The Plan Commission has allowed them over the years to control access. Mr. Doriot questioned Attorney Kolbus if he is correct, and Mr. Kolbus stated yes, because we have adopted their standards by reference, and in that way, the control. Mr. Warner indicated this is a step in the process and the Plan Commission is only a recommendation to the County Commissioners from here. We are moving rapidly toward complete "build out", which means agricultural land will be questionable as to what is left.

Jim Coolidge, 22468 Spicewood Drive, Goshen, challenged the Board to look at this from afar. He suggested each member read the constitution. He indicated we have over-regulated on the local level as the rights of the individual property owners vs. community rights. Central planning is in no way part of the constitution. He sees that the challenge is farmers should have the right to subdivide their property. The Zoning Ordinance tends to make the property owner a tenant. He questioned the good in owning property if you have to get approval on it. Mr. Stump stated he agreed with Mr. Coolidge. He suggested we would not have any roads if they did not regulate or have any zoning laws, which would lead to a neighbor who would subdivide his house and rent it out to three different people. Mr. Coolidge understands the need for laws and rules. When looking at the Zoning Ordinance, he suggested one should question the purpose of the document; whether it is to resolve disputes between neighbors, or if it is to set up a bureaucratic system to charge fees and raise revenues for the county. Mr. Campanello noted this discussion is to try to keep from doing that. Mr. Stump stated this has already been passed on to the Commissioners with a positive recommendation for 12 months. Mr. Campanello suggested the problem is requiring a building permit to obtain an Administrative Subdivision Permit. Mr. Godlewski reported from 1975 to 2009, there was the three acre rule. The Administrative Subdivision Ordinance was developed in 2009 to replace that.

Doug Thwaites, 70946 CR 33, expressed confusion as staff is trying to help out. He is here for property rights. He questioned why the farmers do not have the right to sell their property. Mr. Burbrink noted there are other ways to complete a sale. Mr. Thwaites said to look at it in another scenario, if they are going to retire, why they should not be able to sell off their land. He stated the restrictions are what bother him the most. Mr. Thwaites noted the more restrictions, the less the agricultural community can do things. Mr. Miller reported there are a lot of rules in place to have options to sell the land. What is being asked for is that it be done in an orderly manner. Mr. Thwaites stated he understood that, but then you are talking costs and restrictions.

9. *Tabled Vacation of Right-of-Way Fee*

Mr. Godlewski reported originally the majority of the work involved was done by the petitioner. Over time, it has worked out that Planning Staff has taken the share of that work. He stated the idea now is to align the fee with a Rezoning fee because the same amount of work is being done on both. He said they didn't want to go too high with the fee either, and it was felt a \$300 fee was appropriate. It was noted this is a Rules of Procedures change, not an Ordinance change. Mr. Miller questioned if the person who files it will be the person who pays the fee, which Mr. Godlewski stated yes. Ms. Snyder questioned if the fee is paid when they apply and then if it gets denied what happens. Mr. Doriot answered the question by stating the fee would be gone. Mr. Warner noted the fee is only 1/3 of the actual cost. Mr. Godlewski reported when the cost study was done on the Rezoning, it showed 50% of the money was recouped, and the Vacation of Right-of-Fee is very similar. The land owner does have to pay the cost of a surveyor to do a boundary survey. Mr. Godlewski questioned if he should propose this again.

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

Motion: Action: Approve, **Moved by:** Lori Snyder, **Seconded by** Tony Campanello, that request for the Vacation of Right-of-Way fee increase to \$300.00 be denied.

Vote: Motion passed (**summary:** Yes = 5, No = 4, Abstain = 0).

Yes: Blake Doriot, Jeff Burbrink, Lori Snyder, Steven Edwards, Tony Campanello.

No: Frank Lucchese, Roger Miller, Steve Warner, Tom Stump.

10. Mr. Doriot adjourned his 287th Plan Commission meeting.

Respectfully submitted,

Andrea Wyatt, Recording Secretary

Steve Warner, Chairman