

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 8TH DAY OF SEPTEMBER 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 Vice-Chairman, Roger Miller, with the following members present: Blake Doriot, Frank Lucchese, Tony Campanello, Roger Miller, Tom Stump, Steven Edwards, 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; Steve Warner, Board member; and Lori Snyder, Board member; were 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 14th day of July 2016, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Burbrink/Doriot*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 9th day of June 2016, be approved as submitted. The motion was carried with a unanimous vote.

4. 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.

5. The application for a Primary approval of a 91 lot Major subdivision to be known as ***Jimtown Crossing***, for Traco Llc represented by Lang Feeney & Associates, on property located on the South side of CR 20, 1,300 feet West of CR 1, in Baugo Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0410-2016*. For the record, he showed he received an email from Chief Gonzales, Baugo Township Fire Department, listing concerns about this petition.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan St, South Bend, was present representing Traco LLC. He stated there is a contingent purchaser who is a residential developer interested in providing single family homes. Mr. Lang advised the plan was put together with regards to the adjacent property owners and the lot sizes of the adjacent subdivisions and noted he designed the project to the South and Mary Don Lane area. Mr. Lang reported soil scientists have performed over 100 soil borings on the site to confirm the types of soil to make sure the lots are sufficiently sized to handle double septic systems in case of a failure, and to make sure the retention areas are sized appropriately to handle storm water management. Mr. Lang went on to say the plan designed has over-capacity regarding storm water management in that area, which is exactly as other subdivisions in the area are done. Mr. Lang validated concerns about access onto CR 20, that it is extremely busy but believes adding another entrance would make it even more so. Mr. Lang stated the first phase would connect at least two stub streets to the subdivision so there would not be

a burden immediately upon any one street at the beginning of the project. Mr. Lang noted there would be a construction entrance so there would not be any driving through residential areas with large trucks, which would be no more than what you would have if you were building a home on an individual lot site. Mr. Lang added the subject property is surrounded by residential property all around. Mr. Miller questioned Mr. Lang if he feels he had addressed the Staff's concerns, in which Mr. Lang believed he had and he believed it would not be overburdening the area, according to how surrounding properties are zoned. Mr. Lang gave history of the property, and stated that residential use is the highest and the best use of the property and the homes will be stick built homes exactly as the homes around it have been. Mr. Lang indicated that the developer is also a home builder and will be looking at building the majority of the homes himself. Mr. Miller inquired about covenants and restrictions, which Mr. Lang stated there will be restrictive covenants put together. At this point until the outcome of the rezoning portion, he cannot say what they will be because if the lots are increased in size, the restrictive covenants will be changed accordingly. Mr. Lang noted if it is approved to the R-1 zoning with regards to having outbuildings or swimming pools that is exactly the same way Dunhill Crossing is set up. He said builders are aware that there is a septic/reserve area set aside, and there is no room for auxiliary buildings or pools. Mr. Lang indicated the developer would not have a problem with including that restriction into the restrictions to protect the septic area. Mr. Stump requested to be shown on the aerial where the access points are, which Mr. Lang pointed out entrances platted at Mary Don, Pine Bluff and Amber Valley. He noted there are two platted streets on the East side which were never constructed, but they could tie into them in the future. Mr. Stump inquired as to whom owns the roads, in which Mr. Lang reported they are dedicated county roads. Mr. Stump pointed out there is no access to the two roads he had mentioned. Mr. Lang stated Traco LLC can provide for that, but at this point there was no comment back from the County Engineering Department with regards to providing stubs for those, so he does not believe the County is anticipating those being developed in the future. Mr. Lang stated if it is something the Highway Department deems necessary, Traco LLC can provide that. Mr. Doriot does not believe they are platted wide enough to meet highway standards. Attorney Jim Kolbus noted 39.4 feet, and Mr. Doriot stated the minimum is 40 feet. Mr. Campanello questioned the retention area and where everything will drain to; in which Mr. Lang noted there are multiple retention basins located around the site as it shows in the plan provided. All of them are greater than the required basin sizes so there is no storm water problem. Mr. Lang added that the soil borings that have been done and they are twice as big as the soils can handle. Mr. Doriot questioned seasonal high water table, in which Mr. Lang noted they were all greater than the depth of the borings. Mr. Miller confirmed there were 100 borings, and Mr. Lang stated there were borings done on every lot and in some cases, where storm water retention is anticipated there were extra borings. Mr. Miller questioned the type of soil, which Mr. Lang stated a sandy soil. No modeling at all was encountered which is an indication it is a seasonal high water. He went on to state that he feels due diligence has been done. Mr. Burbrink questioned the fire station location; Mr. Lang noted it was East of the aerial photo.

Brandon Denesuk 57735 White Pine Court, Elkhart, an employee of the Elkhart County Sheriff's Department brought this to the Sheriff's attention, and submitted a letter from the Sheriff *[attached to file as Remonstrator Exhibit #1]*. Personally, he expressed concerns with the way it is constructed and feels the developer needs to be smarter about it. He noted the developer wants to put this development on three residential roads. He reported that he measured Mary Don Lane which is 17.5 feet wide, which is not enough for two cars. Mr. Denesuk understands that CR 20 is a busy

access road but feels if the subdivision is put there, there needs to be access to it other than an a residential road. Mr. Stump clarified that Mr. Denesuk was speaking on his own behalf. Attorney Kolbus noted the Sheriff's concern is lack of ingress/egress off of CR 20.

Mr. Miller asked for a show of hands present in opposition, Jason Auvil counted 52. There were none in support.

William Langford, President of Pine Bluff Subdivision Home Owners 'Association (HOA), 57731 Weathered Pine Court, Elkhart was present. He submitted a signed petition *[attached as Remonstrator Exhibit #2]* and noted there is no similarity with size of lots. Mr. Langford stated many residents are opposed because of the "snapshot of City of Elkhart" next to them. They do not want the area over-built and feel an entrance on CR 20 should be mandatory as they do not want traffic through their neighborhood. Mr. Langford stated it is not congruent with Pine Bluff, and that people will be buying houses that are basically slab houses, not full basements, and there is no room for anything else. He noted they have a lighted neighborhood, which the HOA pays for; and the residents of this subdivision will not be paying for that. Mr. Langford believes the neighborhood should be congruent with restrictive covenants and a HOA to make sure everyone's property values stay the same. This way there will not be an economic impact, lowering tax rates, and lowering the revenue the County would put in.

Also present was Chad Dover, 30479 Dunhill Crossing, President of the HOA for Dunhill Crossing and submitted a signed petition *[attached to file as Remonstrator Exhibit #3]*. His and everyone's biggest concern is the entry way onto CR 20. He stated the difference for Dunhill Crossing is that all three subdivisions come off of CR 100, which backs up terribly from work traffic. If there are 91 more homes, cars would be backed up into the subdivisions, which is why Dunhill Crossing feels they need a CR 20 entryway. Mr. Dover stated Dunhill Crossing just got their lights back on, where the HOA pays for. He questioned if new residents will contribute to their HOA fees for using the roads and entryway. Mr. Dover reported unlike Pine Bluff and Mary Don, Dunhill Crossing is a straight street. He indicated they have had problems with speeding, and this is a heavy family populated subdivision with a lot of children. There are no sidewalks, so when children are on their bikes, they are on the road. Mr. Dover stated they have inquired about stop signs and speed bumps to attempt to fix problem, but it was not allowed. Mr. Dover noted there is concern about adding 91 homes and traffic speeding down their road. He went on to say he is unsure of the width of the road but they are able to have two cars. However, if a car is parked on the street, two cars cannot pass. Additionally he reported bussing, trash trucks, and the maintenance and wear and tear of the roads are big concerns through their neighborhood. Mr. Dover personally spoke with the Fire Department who weighed heavily on the fact they would not be able to enter quickly.

Randy Herring, 30531 Pine Bluff Drive, was present as a resident and Real Estate Appraiser. In his professional opinion, after reviewing the proposal, all neighboring subdivisions would be severely negatively impacted. Making comparisons, Mr. Herring noted the site with 80 ft. of frontage and 15,000 sq. ft. is small, and the property values to go along with that for new construction ranging from \$116,000 to \$180,000. He noted a sale for a 1,200 sq. ft. home with 80 ft. of frontage in Dunhill Crossing for \$140,000 and 1,128 sq. ft. new construction with 89 sq. ft. of frontage for \$136,000. As an existing home owner in the area, he questioned how someone selling their 12 year old home at \$140,000 competes with a new home for \$136,000. Mr. Miller questioned if he is estimating what the value of the properties with the new construction will be, in which Mr. Herring stated yes based on the lot size and what appeals to the borrowers. Mr. Miller also questioned the area of the samples he was showing for sale currently, in which Mr. Herring noted it

was the Jintown area. He went on to report new construction, similar to what will be proposed on the subject property at \$165,000, \$175,000, and \$179,000 on 80 ft. lots which are appraisals that he has completed. He noted the same situation for two story residences. In order to be competitive but not impact Dunhill Crossing, Mary Don, Woods 'N Water, and Pine Bluff in a negative fashion, he indicated the lots have to be half acre parcels with restrictions on the sites for a 1,600 ft. ranch and 1,800 sq. ft. for a two story, which would drive property values up and would be congruent with Westleaf Manor. Even though the county would get tax revenue from the new construction, Mr. Herring noted they will also lose revenue from the value of the properties going down. Mr. Herring believes there needs to be a front entrance off of CR 20. He went on to say there have been subdivisions from the same developer that have fallen apart, then other developers and builders have to come in and taken over, and everyone else is affected by the property sitting there not being developed. If they start construction of off of CR 20, and it does not go thru, other subdivisions will not be affected. Mr. Herring believes the main thing the sites need is to be increased to half an acre, have a minimum square ft. and restrictions to not allow modular and manufactured homes. Mr. Campanello questioned Mr. Herring about doing an appraisal on a piece of property this size on an existing house, does he see where there is any extra place for a storage barn, and if he sees pools and barns go up anyway, which Mr. Herring stated yes. Mr. Herring believes the subdivision needs to be a benefit to everybody not a detriment. He submitted MLS appraisals *[attached to filings remonstrator # 4]*

Randy Clay, 30552 Mary Don Lane, was present in remonstrance and suggested hooking up with Priscilla Street as an exit. He questioned if there is anything that says they have to attach to their streets, and suggested this to be a separate subdivision with its own exit and entrance. Mr. Clay stated this would negate any possible affects of small lots. He reported he had built his own house in 2009 on an agricultural lot that is 20,000 square ft. and the house is 1,600 square ft. Additionally, he noted it is a big lot, on a quiet street, with no traffic, which is why they built the house where they did. Mr. Clay indicated that the neighbors are considering moving if this occurs. He stated the infrastructure in that neighborhood, getting on to CR 100 and trying to get onto Mishawaka Road is terrible. Mr. Clay suggested an under-pass or over-pass over the tracks on Ash Road, so the traffic can move making it okay. Mr. Clay believes this is a quality of life issue for traffic. If the subdivision were to go in, he suggested a tree line buffer between housing developments. Mr. Miller questioned if there is one currently between their neighborhood and the other one, in which Mr. Clay stated there is a fence row that he would like to be increased. Mr. Clay advised he would like the lots to stay agricultural so the lots would be 20,000 square ft. and went on to add that the soil is so sandy that to keep their grass growing, they have to water every day. Mr. Clay inquired about how this will affect the water quality in this area because the lot is so small and sandy. He also noted there are two street lights, which they pay to have them maintained. Mr. Clay noted his builder told him Mary Don Lane was engineered by the same developer that is proposing this development and the cul-de-sac was specifically engineered as a cul-de-sac not to be opened up per the County's request. Mr. Clay submitted a petition *attached to file as remonstrator exhibit #5*.

Matt Glick, 30547 Pine Bluff Drive, Elkhart, was present in remonstrance. He referred to the Zoning Ordinance, noting the map zoning changes, conservation of property values, responsible growth, and development. Mr. Glick noted he is in the construction industry, although not residential. But he has built many approaches and entrances. Mr. Glick believes with proper acceleration/deceleration lanes, it could make a safer entrance on CR 20 than off of CR 100. Mr.

Glick stated when Dunhill built their development, they could have used Pine Bluff as their entrance but they did not. They built their own approach with acceleration/deceleration lanes. Mr. Glick added he was using this as a contrast so people are not thinking that Mishawaka Road is not a good option. Furthermore, he added logistics and reported varying times to Jimtown schools which are much shorter by way of CR 20. Mr. Glick noted the roadways in all three subdivisions were not built to handle an extra 400 or more cars a day, and there are no stop signs, or speed limit signs. Mr. Glick questioned if a traffic study had been completed or required. Mr. Glick believes the layout of the proposed subdivision lends to a problem like Dunhill finds with a straight-shot street, which makes it super dense and dangerous.

Ian Smith, 30677 Mary Don Lane, also spoke in remonstrance. He stated he believed the streets need widening, and expressed concern about setbacks of his house changing. Mr. Smith stated he bought the house three years ago as his dream home. As they are now expecting a child, he wants his little one to live on a cul-de-sac and does not want to live in fear of traffic coming through.

Sarah Nixon, 30731 Dunhill Crossing, also spoke in remonstrance. She stated her main concern is the railroad, which already causes the traffic to back up down to the new proposed subdivision, and makes turning left almost impossible. Ms. Nixon questioned how she is supposed to make it to her job in a timely fashion when there is no overpass, and the traffic is at a standstill. She reported she can easily sit 15-20 minutes now as it is. Ms. Nixon added that everyone is affected whether the proposed subdivision has an entrance at CR 20 or not. While she is all for the growth she reported this is not responsible and is not an option in her eyes. Ms. Nixon invited the Board to come to CR 100 when the factory and school let out and let her know how long they sit trying to make a left turn. Ms. Nixon stated they are in their own little entity in Jimtown. Although they choose to be there because of the small neighborhood, this puts a thorn in everybody's side as far as traffic. Ms. Nixon requested this be taken under consideration as to adding another 100 people turning left, when traffic is already backed up. Mr. Miller stated the Board is pretty in-tune with the traffic flow and understands that.

James Carrico, 30520 Pine Bluff Drive, was present in remonstrance. As a realtor, he emphasized the impact on housing values, but expressed even more concern about the subdivision being started but not completed which would be horrible. Mr. Carrico stated it is very difficult to redevelop an unfinished subdivision that has sat for many years. Mr. Carrico believes the traffic should be disbursed in more directions other than sticking them on CR 100, which lets out in the wrong spot. Mr. Carrico noted if they were to exit out on CR 20 from the subdivision, it would be a more ideal location for the exit to begin with, and if they go out the East side, they could use other means to get to the school and Fire Department rather than get on Mishawaka Road.

Steven Rosentreter, 57702 Weathered Pine Court, Elkhart, also spoke in remonstrance. He stated he has worked commercial and residential construction for 25 years. By looking at the property, you can tell the access was meant to be on CR 20. He understands Traco LLC does not want to pay for acceleration/deceleration and passing lanes on the other side. Mr. Rosentreter questioned how construction equipment will enter the subdivision and believes it will be from CR 20. He went on to say if you look at the design of the subdivision, you cannot drive equipment over designated septic fields. Mr. Rosentreter stated there is no way to run over a designated septic field if there is not a road running all the way thru. Rosentreter believes there will not be any loss of lots by running the road all the way thru and not tying onto any of the subdivisions.

In response to statements about home owners' associations, Mr. Lang stated they are not

required by State law. He reported Dunhill Crossing does and did have a plan for two septic systems through the entire subdivision, which Mr. Lang designed so he knows it does exist. The Planning Department has that information, and they are not proposing anything more dense than on the adjacent property. With regards to the roadway, Mr. Lang stated tying into the stub streets to the adjacent properties will be required by the Planning Department and County Highway Department as they go. As for the street lights being shut off in Dunhill Crossing that sounds like a HOA problem and they do not have control over that. If streetlights are put in new subdivision, necessary items will be accommodated to be maintained by the association of this development. Mr. Lang addressed the subject of trash, buses, snow plows, and services already on-site to homes that are there now, so there will not be additional trucks just to serve the new subdivision. Mr. Lang noted the County does the best they can with the maintenance of the existing roads. He noted whoever buys or develops this piece will be taking care of that design requirement with the Elkhart County Highway Department and will be built to those standards like the standards that were required of Dunhill Crossing, Pine Bluff, and Mary Don. Mr. Lang reported that the very first section of Mary Don was put in years ago before the standards for the pavement were required. Mr. Lang added when the back section was developed, they were done to Elkhart County standards to make sure there would be continuity with adjacent properties. Mr. Lang advised the cul-de-sac was required to be platted in a fashion that the road could be extended. If the previous developer told people it would never be extended, he misinformed them because the road was designed and required to be put in that fashion. If this was designed with ingress/egress off of CR 20, Mr. Campanello questioned if the County would still require them to connect with stub streets. Mr. Lang stated yes, and went on to say it would make sure future development has a flow-thru pattern for buses, trash, street and snow removal.

Regarding the appraisals, Mr. Lang believes it is difficult to appraise homes that have not been built in this project. Mr. Lang noted the homes that have been built in Dunhill Crossing can be the same size homes built in this project and substantially have room for septic for the home and very comfortable life styles in those homes. Regarding the underpass, he stated there will never be an overpass because of the right-of-way and cemetery location. Mr. Lang stated his developer looked at the concerns with the road going out to CR 20. If they put an entrance to CR 20, these 90 lots will exit right there, and the people who use CR 100 will never get out on CR 20 because the traffic will back up ever further. Mr. Lang added there would be an option of going right or driving through the proposed subdivision. If the Board sees it necessary to approve with an entrance out on CR 20, Mr. Lang reported the developer will agree to do so but feels it is more of a disservice to the residences that want to use CR 100. He suggested those neighbors will use the CR 20 entrance, which will be a traffic hazard also. Referring to Sheriff's letter, Mr. Lang believes the Sheriff would appreciate them tying into the stub streets for multiple entrances as well as The Fire Department. For the record, Mr. Lang noted the developer would not be real happy to do so, but they can put in a CR 20 access. Mr. Miller asked Mr. Lang about Priscilla Street, which he stated, if the county wants to put that road in, they will connect to it and drop off the necessary lots to accomplish that. Mr. Lang stated if the County wants to do those things, they could leave a stub for it, but he believes it will not happen with the traffic that goes in and out of the ball park. Mr. Lang feels all items have been addressed. When Mr. Campanello questioned lot size, Mr. Lang said he does not see lot size as a concern and added that Dunhill Crossing has worked out fine. Mr. Campanello questioned the number of lots in Dunhill Crossing, and Mr. Lang reported there are 86,

which he noted is roughly the same size as this project. Mr. Miller noted his concern is the straight shots on these streets. He knows there is not a lot that can be done about it, but he knows it increases the speed of the entering and exiting. Mr. Doriot noted the Highway Department has not seen any of the changes to require curves in the designs, but they normally left that up to the developer. Mr. Burbrink questioned the difference in lots if this stays A-1, which Mr. Lang stated a redesign will lose about 20 lots. Mr. Campanello suggested the lot size would be conducive to pools and sheds. Mr. Lang stated that has not been a problem selling the 85 homes in Dunhill Crossing. Mr. Campanello noted it does not match Pine Bluff or Mary Don. Mr. Lang added there could be restrictive covenants put in place to protect people, but people will do what they want.

Mr. Doriot believes the burning question is access to CR 20, and stated he is not going to make that decision now. He recalled all neighbors remonstrating when nearby neighborhoods were going in, change happens, and people do not like it. Mr. Doriot also added regarding lot size, this is the area where you can get by with 15,000 sq. ft. lots and if a subdivision meets the standards, it shall pass which is the law. He noted zoning can be recommended, and the Commissioners can change it. Mr. Miller agreed, stating soil is set up, and it meets standards, but his concern is the exit on CR 20. Mr. Stump noted the Sheriff and Fire Chief want a CR 20 entryway put in, and also staff recommended it. Mr. Burbrink is concerned about safety and exits. Mr. Doriot stated the only problem with the CR 20 access is if there is an accident there, it will be worse than an accident on CR 100. Mr. Campanello noted he has lived in Pine Crest for 20 years which is off of Toledo Road right on the bend. He indicated there is an entrance and exit, and they never tied into another stub street. Mr. Campanello believes tying into other subdivision roads is not a good thing and that it should have its own access. Mr. Doriot questioned Attorney Kolbus about zoning being handled next. Mr. Stump stated he does not think the CR 20 access can be ignored, and it must be a requirement if approved. Mr. Campanello noted if it is kept A-1 then it would have to be redesigned which Attorney Kolbus confirmed. Mr. Miller agreed with Mr. Doriot about connecting with other entrances as they need more than one entrance. Mr. Campanello noted there are many like this in Elkhart County, in which Mr. Miller stated it does not make it right. Mr. Doriot added it has not been done like that for 15-20 years ago and has not been done since because of the safety issue. If approved, Mr. Miller questioned if they want to specify which entrances should be connected.

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

**Motion: Action:** Table, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that the request for Primary approval a 91 lot Major subdivision to be known as *Jimtown Crossing* be tabled until after the Rezoning hearing.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Tony Campanello, Steven Edwards, Jeff Burbrink, Blake Doriot, Tom Stump, Frank Lucchese, Roger Miller.

See item #7 on page 9 for the continuation of this hearing.

6. The application for a Zone Map change from A-1 to R-1, for Traco, Llc represented by Lang Feeney & Associates, on property located on the South side of CR 20, 1,300 feet West of CR 1, in

Baugo Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0411-2016*.

Terry Lang, Lang, Feeney, & Associates, 715 S. Michigan St, South Bend, was present representing the petitioner. He reported due diligence has been done with regard to lot size, soil borings, and Health Department approval. Mr. Lang reiterated from the previous hearing about the CR 20 entrance. If the board required it for the rezoning, they would comply, although not happily. Mr. Lang, also being the developer of both Dun Hill Crossing and Crystal Oaks on Mary Don, stated those all provided double septic systems which fit on all the lots.

William Langford, President of HOA, 57731 Weathered Pine Court, Elkhart, was again present in remonstrance. He noted one question that is not being answered is the lot sizes are not congruent with what Pine Bluff is, and therefore there is an economic impact. Mr. Langford believes FHA has a septic and well distance separation of requirement 100 ft. and the proposed lots are mostly people getting FHA financing. He questioned how people will get those FHA loans.

Denise Clay, 30552 Mary Don Lane, Elkhart, was present in remonstrance. Her concern is too much traffic, and no infrastructure to handle it. She believes bigger lots, with fewer houses and cars would be better.

Matt Flick, 30457 Pine Bluff Drive, Elkhart, was also in remonstrance, and stated he understands there is a minimum standard for the Health Department, which he is not questioning. But he questioned the ability to have a patio, deck, outbuilding, and pool. Mr. Flick believes pinning people in by having such a minimum design standard does not give people the chance to do the right thing because the lot size will not allow them to. Mr. Doriot stated when someone comes in for a permit; they will have to show a site plan with patio and two septic systems. If they show evidence that proves they have room, the permit would be issued. Mr. Flick acknowledged what Mr. Doriot was saying but believes people should have the opportunity to have enough free space to not impact their septic fields or the reserve field area.

Randy Herring, 30531 Pine Bluff, Elkhart, Real Estate Appraiser, stated there is a 100 ft requirement from the well and septic. Mr. Herring also added most of the homes that are being built are being financed by FHA/USDA. Mr. Herring said he believes bigger lots will improve everything all the way around.

Also in remonstrance was David Sprinebrook, 30534 Mary Don Lane, Elkhart, Who expressed his concern is whether schools can handle this many additional students.

In response, Mr. Lang noted FHA requirements, but not knowing how homes will be financed; it is a guess at this point. Mr. Lang said he does a lot of mortgage loan surveys on the completion of homes and stated FHA is not the most economical in most cases, although it may be the only source that some may have, and those requirements would have to be met if that was the way it was being financed. Mr. Lang stated it is being designed according to the local Health Department standards and the Subdivision Ordinance sizes for the appropriate zoning for that. Mr. Lang advised when the plan was done for the septic systems, a generic boxed house plan was used to show which is much larger than any of the homes in the area are shown for. If someone would want a deck or a yard barn, he noted those items are checked when the Location Improvement Permit is pulled, to make sure the proposed construction is not infringing upon the septic location.

Attorney Kolbus noted the record should include the testimony from the previous hearing to have a complete record to go to the County Commissioners.



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

Mr. Stump noted the zoning determines the minimum lot size.

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

**Motion: Action: Moved by** Tony Campanello, **Seconded by** Tom Stump, that the Advisory Plan Commission forward the request for a Zone Map change from A-1 to R-1 to the Board of County Commissioners with the recommendation of denial.

**Vote:** Motion passed (**summary:** Yes = 4, No = 3, Abstain = 0).

**Yes:** Jeff Burbrink, Steven Edwards, Tom Stump, Tony Campanello.

**No:** Blake Doriot, Frank Lucchese, Roger Miller.

With the 4 to 3 vote results, Attorney Kolbus stated, there must be 5 votes one way or the other, an option is to pass it on with no recommendation, which does not help with the previous petition unless the Board wants to extend the tabling out until the County Commissioners act. Mr. Burbrink noted if the zoning is left A-1, it would have to be redesigned and show a CR 20 access. Mr. Miller explained his vote; Mr. Campanello believes common sense should be brought in. Attorney Kolbus interjected; with the Subdivision Ordinance, if the standards are met, it has to be granted. With rezoning, they have discretion even if it meets the standards. Mr. Campanello pointed out #5 of the staff analysis. Give them a lot where they can do this. Mr. Stump agreed with Mr. Campanello. Mr. Doriot suggested the Ordinance needs to be changed regarding the R-1 being allowed with septic and added all of the soils in the county, area in Baugo and Jefferson/Bristol, Mr. Campanello suggested Ordinance needs to change to practical uses of land for home owners. Mr. Doriot noted the high demand for houses is unbelievable.

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Blake Doriot, that the Advisory Plan Commission forward to the Board of County Commissioners without recommendation.

**Vote:** Motion passed (**summary:** Yes = 5, No = 2, Abstain = 0).

**Yes:** Blake Doriot, Frank Lucchese, Jeff Burbrink, Roger Miller, Tom Stump.

**No:** Steven Edwards, Tony Campanello.

Attorney Kolbus stated the Motion passed and the petition will go to the County Commissioners without the recommendation of the Plan Commission. Mr. Doriot inquired about the date.

7. The application for a Primary approval of a 91 lot Major subdivision to be known as **Jimtown Crossing** previously heard as item #5 on page 1 came back on to be heard.

Attorney Jim Kolbus informed the remonstrators that this will go to the County Commissioners on the third Monday of October without a recommendation, in which there will probably be another hearing. It will be sent back to the Plan Commission. Everyone will be re-notified within 300 ft of the property along with a notification in the paper.

A motion was made and seconded (*Doriot/Miller*) that the tabling be extended to the appropriate meeting after the County Commissioners hearing with re-notification as required under the Plan Commission rules.

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

**Yes:** Tony Campanello, Steven Edwards, Jeff Burbrink, Blake Doriot, Tom Stump, Frank Lucchese, Roger Miller.

8. The application for a Zone Map change from A-1 to a General Planned Unit Development A-1 to be known as *Little Bluestem Farm*, for Ryan Senseing (buyer) and Maplecrest Country Club of Goshen, Inc (seller) represented by Cardinal Point Surveying, on property located on the West side of Zollinger Road (CR 28), 4,000 feet North of CR 22, Jefferson Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #GPUD-0407-2016*.

Phillip Barker, 1002 Zollinger Road, Goshen, was present representing the petitioner. He gave some history on the subject property. Mr. Barker reported the petitioner was approached by a buyer to purchase the property. Mr. Barker stated the PUD gives flexibility, and also gives the Board quite a bit of oversight on this. Mr. Barker went on to say if this gets approved there will be a DPUD submitted later, which will include three building sites, one retained by Mr. Senseing with a barn and possibly a dawdy house type structure. Mr. Barker relayed Mr. Senseing's main goal is to do some habitat restoration, which the Fish & Game are on board with. Mr. Barker noted the reason Mr. Senseing would like to sell off two half acre lots is to diffuse expense of this undertaking along with a private roadway, which he has no problem with a maintenance agreement for it. Mr. Doriot questioned about the educational portion, to which Mr. Barker stated Mr. Senseing is the Chair of the Biology Department at Goshen College. His wife teaches, and she is planning on setting this up. After it is built, Mr. Barker also said they will raise cattle, sheep, and goats, to make a sustainable farm.

There were no remonstrators present.

A motion was made and seconded (*Miller/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** Roger Miller, **Seconded by** Steven Edwards, that the Advisory Plan Commission approve this request for a Zone Map change from A-1 to a General Planned Unit Development A-1 to be known as *Little Bluestem Farm* as presented and in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Blake Doriot, Frank Lucchese, Jeff Burbrink, Roger Miller, Steven Edwards, Tom Stump, Tony Campanello.

8. The application for a Zone Map change from A-1 to B-1, for James & Retha Yoder represented by Progressive Engineering, Inc, on property located on the West side of SR 19, 800 feet South of CR 48, in Locke Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0386-2016*.

Brad Cramer, Progressive Engineering, 58640 SR 15, Goshen, was present representing the petitioner. He stated that a church wants to purchase property to the South that is being created for

their expansion for a medical clinic, not a high density use. Mr. Cramer stated the City sewer extends to CR 50, 1,700 ft. extension of sewer is required to get to this property including also crossing a ditch. Mr. Cramer noted there was a gentleman present to speak on the feelings of the Town of Nappanee about this development. Mr. Cramer stated the use to the North would remain the same but he was unsure of church's intention for use of property to the South.

Christian Davy, Cressy & Everett, 4100 Edison Lakes Parkway, Mishawaka, was present also representing the petitioner and stated he had a letter from the City of Nappanee in support of the project [attached to file as Petitioner Exhibit #1]. Mr. Davy reported he had spoken with the City of Nappanee, and the City requested they look at other competing sites that were more South. They went through and vetted those sites but due to the cost, traffic concerns with the High School, and customer base, this site was selected located North of the Church expansion which he submitted. Mr. Davy stated this site is 10 acres, and the Phase of this project he is speaking on is on the behalf Beacon Health Systems. This Phase is a 2-3 acre site, an 8-11 thousand square ft. building in the space, which will serve around 175 patients, 30 jobs, 6 health care providers, and 20-25 staff. Mr. Davy noted they took enough space to give flexibility in the future for a private system for the sewer and water needs of the site.

Jason Auvil reported an email from Bill Hartsuff, Environmental Health, estimating that the need for system and reserve is at least 14,000 sq ft., which he submitted [attached to file as Staff Exhibit #1]. If this property were connected to city sewer Mr. Miller questioned if it would that change the decision of the Staff. Mr. Auvil answered yes, but went on to say it is still disrupting an agricultural zone, and leads to potential sprawl development. While we are supposed to be conserving Agricultural land, he said it would be acceptable. He stated uses like this need to be on a municipal sewer system.

Stephanie Floyd, Progressive Engineering, 58640 SR 15, Goshen, indicated she spoke with Peter Poone at the State about septic requirements. Mr. Poone sent an email to the County to submit comments back, via a 10 day grace period, and the County has not submitted any comments back on where they feel this would be a hindrance to the site. Ms. Floyd noted this was last checked yesterday at noon. She went on to say that the State told her if they did not hear back from the County, the project would be assigned to an ISDH staffer who will then compile the requirements and email the results for the site.

Mr. Auvil stated this site can meet the minimum standards as required by the County Health and Planning Department but does not make good planning sense. He pointed out the representative from Beacon Health noted cost; Planning has no concern for that. He stated they could find a place that is close to sewer or has sewer. Mr. Auvil noted it does not make sense to build in middle of an agricultural zone. If it is built to the standard, it can be put in there, with a 14,000 square ft. septic system, and it would meet the County standard and all the various ordinances as well.

Mr. Davy stated the overall reason is serving customers or patients, not the cost, and the other sites were too close to the high school and the overall traffic concerns.

Mr. Cramer noted the City of Elkhart does not have a required distance for sewer hook-up. If it poses a problem with the Health Department, they are required to hook up within 300 ft. and outside the city of Goshen if it is within 300 ft. which is a recommendation from State.

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.

Mr. Miller thinks it is inevitable that this area will be built up but believes the Staff has good points in recommending denial. Mr. Campanello believes Beacon has plenty of money to hook up to sewer. Mr. Doriot noted it is a private system, owned by church, and he is not sure it is a dedicated sewer line. Mr. Stump thinks closer to the city would be better for everybody, especially without sewer. Attorney Kolbus suggested a commitment that they hook up, or they hook up when the public sewer gets close. Mr. Stump stated the public sewer is so far out, it may never get close. Mr. Stump noted the private sewers are not built to municipal specifications. Mr. Miller questioned if there was sewer from the West side of Nappanee running out that way, and Mr. Stump stated it was nowhere close. If this were approved, Mr. Campanello questioned if there could be a commitment that states this would only be used as a medical facility, which Attorney Kolbus stated medical facility use only as commitment. Mr. Miller stated he would like to see them do something closer to town where they could hook up to utilities and he disagrees with some of the Staff Analysis.

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

**Motion: Action:** Approve, **Moved 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 B-1 for James & Retha Yoder be approved as presented with the following commitment:

1. Approved for the use of a medical complex as presented by the petitioner.

**Motion:** Died for lack of a second

**Motion: Action:** Denied, **Moved by** Jeff Burbrink, **Seconded by** Roger Miller, 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 James & Retha Yoder be denied in accordance with the Staff Analysis/Recommendation.

**Vote:** Motion passed (**summary:** Yes = 5, No = 2, Abstain = 0).

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

**No:** Blake Doriot, Frank Lucchese.

9. The application for a Zone Map change from A-1 to R-4, for Joy Hardin, on property located on the South side of W. Wayne Street, 290 feet East of Red Bud Lane, East of US 20, common address of 523 Wayne Street in Middlebury Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0396-2016*. An email letter in remonstrance was submitted [attached to file as Staff Exhibit #1].

Joy Hardin, 523 Wayne Street, was present as the petitioner and indicated she and her sister are proposing to open a craft store in their parents' home. She went on to explain that her sister is a crafter and has been in the business of making and designing her crafts for over 40 years. Ms. Hardin stated their parents built the home, which she and her sister have maintained since their parents' passing. Ms. Hardin noted after going through two stories and a full basement, they have found memories and antiques and felt it would be a good time for her sister to open the store, which will be on the first floor only. Ms. Hardin believes this would be an asset to the Middlebury community. She reported they have remodeled the exterior of home completely along with a front porch and a handicap ramp. She noted the acreage is 4.22, and the house is only on a half acre and

the rest will remain undeveloped. Ms. Hardin stated the house is between Das Dutchman Essenhaus and downtown Middlebury, which is 10 miles from Shippshewana, and the tourist traffic goes right past the house. Ms. Hardin believes since there are a lot of home businesses on Wayne Street, their store would bring local shoppers and tourists. Ms. Hardin stated the property has an existing large circle drive, which would be a one way drive, and there will be five parking spaces on the East side of property.

Jason Auvil submitted a letter from Theresa Wilson, 525 West Point, in support [attached to file as Staff Exhibit #2].

Mr. Miller questioned Staff if R-4 is an unusual zoning for a business, which Mr. Auvil stated no. He went on to explain that the R-4 is for the high intensity residential and mixed uses, which falls in line with what they want to do. Mr. Campanello questioned if it would be wrong to put a commitment on this one.

Larry Carlson, 507 Dogwood Lane, was present and expressed concern about the depth of the property that borders on a dozen and a half homes and noted they are worried about future business use. Mr. Carlson stated the current plans are not troubling, but the concern is with this being a lot of acreage and the future use of it. Mr. Campanello questioned Mr. Carlson's concern about this if there were a commitment for this type of business, which Mr. Carlson stated it would accommodate him, but he does have a little bit of concern about traffic. Mr. Campanello noted the lower speed limit in there.

Tom Stemiller, 513 Horizon Drive, was present in remonstrance. He stated his concern is possible growing use of the property to the rear. Mr. Stemiller noted he is okay with a commitment stating specific use, but indicated safety concerns at the top of the hill with bike riders and joggers on the side walk. Mr. Campanello noted it is not a high intensity business. Mr. Doriot pointed out the sidewalk is on the outside of the curve, which makes it better.

In response, Joy Hardin stated the acreage behind the house has been undeveloped since 1941, and was previously farmed by her grandparents. Ms. Hardin advised they have been approached by many developers, but have chosen to keep this area natural. Ms. Hardin noted their father's dying wish was it be kept in the family. Ms. Hardin stated they would like to put a walking path with picnic tables and flowers, to be able to have people come and enjoy a beautiful place to sit. Mr. Campanello questioned Ms. Hardin if she would agree to a commitment for an approval with the specific business as stated, which Ms. Hardin stated sure.

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** Tony Campanello, **Seconded by** Steven Edwards, that the Advisory Plan Commission recommend to the Town Board of Middlebury that this request for a Zone Map change from A-1 to R-4, for Joy Hardin be approved with the following commitment:

1. No other business activities allowed.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Tony Campanello, Steven Edwards, Jeff Burbrink, Blake Doriot, Tom Stump, Frank Lucchese, Roger Miller.

11. The application for a Zone Map change from A-1 and M-2 PUD to M-2, for Jayco Corp represented by Jones Petrie Rafinski, on property located on the East side of CR 17, 800 feet South of Beck Drive, North of CR 14 in Jefferson Township, zoned A-1, M-2 PUD, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0404-2016*.

Ken Jones, Jones, Petrie, Rafinski, was present representing the petitioner. He stated he agrees with staff recommendation.

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** Steven Edwards, that the Advisory Plan Commission recommend to the County Commissioners that this Zone Map change from A-1 and M-2 PUD to M-2, for Jayco Corp be approved in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Tony Campanello, Steven Edwards, Jeff Burbrink, Blake Doriot, Tom Stump, Frank Lucchese, Roger Miller.

12. The application for a Zone Map change from A-1 to B-2, for Kropf Family Real Estate, Llc represented by Marbach, Brady, & Weaver, on property located on the North side of US 20, 569 feet West of SR 13, in Middlebury Township, zoned A-1, B-2, or B-3, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0406-2016*.

Debra Hughes, Marbach, Brady, & Weaver, was present representing the petitioner who was also present. She noted they had the option for B-2 or B-3 zoning, but chose B-2 and support the Staff recommendation.

There were no remonstrators present.

Mr. Campanello questioned the strip area to the North of the subject property, which he was informed belongs to Miller's Garage. Mr. Campanello also questioned if the trees there were going to be taken out.

Charles Teall, 110 River Park Drive, Middlebury, stated that almost all of the trees in the 75 ft. strip are gone because they are dead. He suggested a barrier, which only concerns the residential area.

A motion was made and seconded (*Campanello/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** Steven Edwards, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Town Board of Middlebury that this request for a Zone Map change from A-1 to B-2, for Kropf Family Real Estate, Llc be approved in accordance with Staff Analysis and as presented.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

**Yes:** Tony Campanello, Steven Edwards, Jeff Burbrink, Blake Doriot, Tom Stump, Frank Lucchese, Roger Miller.

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

Mr. Auvil reported that on August 15, 2016 the Board of County Commissioners acted in accordance with all July 7, 2016 Plan Commission recommendations, approving all petitions without modification/additional commitments.

14.    A Staff item was presented by Chris Godlewski regarding the Administrative Subdivision Control Ordinance that was added to the Board Members packets. He noted copies of the existing and proposed were included to cross reference and the definition was clarified. He suggested it be set for public hearing next month.

A motion was made and seconded (*Doriot/Edward*) that the amendments to the Administrative Subdivision Control Ordinance be set for public hearing next month. The motion was carried with a unanimous vote.

15.    A motion was made and seconded (Doriot/Miller) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 11:55 a.m.

Respectfully submitted,

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Andrea Wyatt, Recording Secretary

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Steve Warner, Chairman