

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 14TH DAY OF DECEMBER 2017 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, Roger Miller. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Mae Kratzer, Planner; Matt Shively, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: Steven Edwards.

2. A motion was made and seconded (*Burbrink/Warner*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 9th day of November 2017, be approved as submitted. The motion was carried with a unanimous vote.

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

4. The application for Primary approval of a 5 lot major subdivision to be known as ROBIN'S RIDGE, for Linda S. Ganger represented by Progressive Engineering, Inc., on property located on the Southwest corner of CR 117 and CR 18, in 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 #MA-0768-2017*.

Brad Cramer, Progressive Engineering, 58640 SR 15, Goshen, was present representing the petitioner. He stated that the plan is to split the property into five parcels with no new roads.

James Nagy, 57633 CR 117, Goshen was present in remonstrance. He stated that he is confused as to why the meeting is in place since the property has been sold. Mr. Kolbus stated that the sale has nothing to do with a subdivision. Mr. Nagy questioned how the subdivision will affect his land. Mr. Barker responded that it will not affect his land. Mr. Miller stated that the detailed plan shows the houses with their own double septic systems. Mr. Nagy questioned if the homeowners will put up a fence. Mr. Miller stated that it is not required for the land owners to put the fence in but it could be requested. Mr. Lucchese asked Mr. Nagy if he has seen the design yet. Mr. Auvil gave a copy of the plan to Mr. Nagy. Mr. Kolbus explained to Mr. Nagy that the plat shows the residence will be constructed further North and the back part of the property will be vacant. He explained that he was just curious what was going on with the subject property.

Mr. Cramer returned to the podium stating that he can pass the request of the fence to the owner. Mr. Stump questioned if they can require the fence. Mr. Kolbus responded no.

A motion was made and seconded (*Miller/Lucchese*) that the public hearing be closed, and

the motion was carried with a unanimous vote.

Mr. Barker stated that he does not have a problem with the request; however, he feels the retention areas should be shown on the plat.

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

Motion: Action: Approve, **Moved by** Philip Barker, **Seconded by** Tony Campanello that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Primary approval of a 5 lot major subdivision to be known as ROBIN'S RIDGE be approved in accordance with the Staff Analysis with the following condition imposed:

1. The petition approved as presented with the exception that the plat reflects the retention easements.

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

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

5. The application for a Zone map change from PUD A-1 to A-1, for James E. Mahaffa & Etal Ten In Com (EN & DJ Life Estate) represented by Progressive Engineering, Inc., on property located on the East side of CR 9 (Johnson St.), 1,000 ft. South of CR 4, common address of 52192 CR 9 in Osolo Township, zoned PUD A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as Case #RZ-0867-2017.

There were no remonstrators present.

A motion was made and seconded (*Lucchese /Barker*) 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** Lori Snyder, **Seconded by** Frank Lucchese that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone map change from PUD A-1 to A-1 be approved in accordance with the Staff Analysis.

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

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

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

Jason Auvin reported that on November 20, 2017, the Elkhart County Commissioners approved the petition for a Zone map change from A-1 to M-1 for KLT Realty, Inc., and a Zone map change from M-2 to B-3 for Makayla, LLC. The Board of County Commissioners also approved the petition for Secondary approval for Yoder Oil DPUD. Mr. Auvin also reported that one petition was denied which was for a Zone map change from R-2 to B-2 for Ponchos Land Development, LLC.

7. *2018 Agreement of Legal Services for Attorney Kolbus*

Chris Godlewski presented the agreement for legal services to retain Jim Kolbus for 2018.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Roger Miller that the Advisory Plan Commission approves the agreement for legal services for Attorney Kolbus. The motion was passed with a unanimous vote.

8. The application for a Zone map change from A-1 to M-1, for Darryl & Maxine K. Zook represented by Jones Petrie Rafinski, on property located on the South side of CR 14, $\frac{3}{4}$ mile East of SR 13, in Middlebury Township, zoned A-1, was presented at this time.

Matt Shively presented the Staff Report / Staff Analysis, which is attached for review as Case #RZ-0876-2017.

Kenneth Jones, Jr., Jones Petrie Rafinski, 200 Nibco Parkway, was present representing the petitioner. He stated that he has been working on this petition for a few months, and they have prepared a preliminary site plan. He added that he agrees with the staff report. He mentioned that there are some single family residences to the North and Northeast of the subject property. He explained that there will be a buffer in place for those neighboring properties. He mentioned that they are currently in preliminary discussion with the Town of Middlebury about the extension of public utilities. He stated that there is a creek to the South of the subject property. He added that the water runs to that creek rapidly. Mr. Miller asked Mr. Jones if he could describe the barrier that he wants to create. Mr. Jones explained that he has a 50 foot buffer and is used as a side yard setback. He added that the ordinance requires four trees every 100 feet supplemented by lower plantings in between those trees and he believes he has mirrored that. He mentioned that they have chosen the type 2 buffer with an opaque fence. Mr. Campanello questioned why they did not ask for a DPUD. Mr. Jones responded stating that this petition complies with the Comprehensive plan, as it is in an urban growth area, and is adjacent to water and sewer.

Eric Tesman, 11474 CR 14, Middlebury, was present in remonstrance. He stated that when he purchased his property there were covenants for his property and surrounding properties that stated the properties needed to stay single family residences and no farming. He mentioned that he is against this petition and explained that there is a pink property flag about 20 feet way from his pool. Mr. Miller questioned if the covenants included the subject property. Mr. Tesman stated that with the covenants, it was understood that there would be no farming or buildings surrounding. He feels that he was sold a bill of goods stating that he will be in the country and not having a manufacturing building behind his property.

Perry Yoder, 11514 CR 14, Middlebury, was present in remonstrance. He explained that his property is neighboring Mr. Tesman's property. He stated that he is against having a manufacturing building behind his property as well. Mr. Barker questioned if he had the same covenants that Mr. Tesman explained. Mr. Yoder answered no, and his residence was already built when purchased.

John Bontrager, 11537 CR 14, Middlebury was present in remonstrance. He stated that he lives across the street from the subject property. He mentioned his main concern is garbage and does not want his yard filled with garbage from the blowing wind. He explained that the business to the West of the subject property has quite a bit of garbage. He added that CR 14 is in no condition to handle

increased traffic, and he is concerned of lighting and the wildlife.

Mr. Jones returned to the podium stating that he appreciates the neighbors stating their concerns. He stated that the garbage is a concern with parts of the county; however, he feels that it will not be a major concern with this petition. Mr. Campanello stated that he wondered why the petitioner is asking for a straight rezoning, instead of a DPUD. Mr. Jones stated that he feels with the preliminaries, the straight rezoning is better. Ms. Snyder questioned if the petitioner was willing to expand the barriers that will be placed. Mr. Jones responded that the ordinance requires different types of buffers. He added that he widened the buffer for security reasons. Ms. Snyder asked Mr. Jones to point out where the buffers will be placed on the property. Mr. Jones explained that the buffers will be placed on the East property lines and the North property line. Mr. Miller questioned if there was going to be a fence placed on the rear property line, and Mr. Jones answered yes. Mr. Burbrink stated there was a question about lighting and asked Mr. Jones to address those concerns. Mr. Jones explained that lighting is another topic that can go in either direction. He added that the lighting can enhance the security however; it can also create light pollution. He stated that there are older sites in Elkhart County that have lighting that has been in place for a long time. He explained that the advantage that they have is that they can rely on modern technology and control light pollution. When Mr. Miller questioned if he was aware of any covenants on the subject property, Mr. Jones answered no.

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

Mr. Miller stated that he agreed with Mr. Campanello about the straight rezoning. Mr. Campanello stated that he is all for a straight rezoning but wanted to make sure the Board understood. Mr. Barker is not for the straight rezoning and is concerned about the covenants on the property to the East. Mr. Stump expressed agreement with Mr. Barker.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone map change from A-1 to M-1 be approved in accordance with the Staff Analysis.

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

Yes: Frank Lucchese, Lori Snyder, Steve Warner, Tony Campanello.

No: Jeff Burbrink, Philip Barker, Roger Miller, Tom Stump.

There was discussion amongst the Board about having the petitioner add a condition or commitment. Mr. Jones returned to the podium stating that they are willing to add a formal condition where they will return with a detailed site plan and photometric plan. Mr. Kolbus mentioned that it would be considered a commitment.

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone map change from A-1 to M-1 be approved in accordance with the Staff Analysis, with the following commitment imposed:

1. Petitioner to submit detailed site plan showing the buffers and a photometric plan for approval by staff.

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

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

No: Philip Barker, Tom Stump.

9. The application for a Zone map change from A-1 to GPUD B-3, for Daniel J. & Alice Bontrager (1/2 Int.) and David J. Myers (1/2 Int.)(sellers) & MJM Leasing, LLC. (buyer) represented by Jones Petrie Rafinski, on property located on the Southwest corner of CR 20 and CR 17, common address of 21902 CR 20 in 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-0878-2017*.

Jim Skillen, President of Robert James Inc., and President of the Elkhart County Redevelopment Commission, was present as the petitioner. He stated that he has great respect for the Board. He mentioned that CR 17 is a County highway and he understands that development takes a lot of time. He added that there is no plan for this portion of CR 17, and believes that it is important to develop due to the economy. He explained that the storage units would be for concrete trucks. He added that there will be ten employees between the office and drivers that would come to the location to work. He stated that there would be a 12,000 square foot building and would hold six or seven trucks. He mentioned that there would be light maintenance work at the building, such as, fixing headlights/tail lights and oil change. He added that there would be an oil separator on site as well. He explained that outside of Hoosier Concrete using the 12,000 square foot building, the proposal is also for mini storage on the facility. He added that it will not be little 8'x8' storage areas, but they want to have 14 foot doors. Mr. Campanello stated that the plans show a concrete wash pad but nothing was noted about that. Mr. Skillen responded that the trucks can be washed at the subject property, and there will be an oil separator. Mr. Skillen passed pictures around of what the buildings and the equipment would look like [*attached to file as Petitioner Exhibit #1*]. When Mr. Stump questioned the wash pad being used for the outside of the truck, Mr. Skillen answered yes.

Kenneth Jones, Jr., Jones Petrie Rafinski, 200 Nibco Parkway, was present representing the petitioner. He stated that the concrete being washed off is required to be done at the job site. He added that any washing at the subject property will be from the road dirt. He mentioned that utilities are not located this far South on CR 17. He explained that they have had early coordination with Elkhart County Highway and have received their input.

Mr. Skillen returned to the podium stating that the Commissioners did a great job at putting together this area of CR 17. He added that there are only two stop lights, one at the intersection of CR 17 and CR 18, and one at CR 17 and CR 18 before getting to the City limits of Goshen. He explained that development will be limited to those intersections.

David Myers, 2809 Ferndale Rd, Elkhart was present as the petitioner. He stated that there are four businesses that are similar to this that are located along CR 17. He explained that he owns this property and the property on the Southeast corner of the intersection of CR 17 and CR 18.

Jason Auvil presented a letter in remonstrance from Joanne Lorenz, 22072 CR 20. In the letter she stated that her concerns are land values, water contamination, increase in traffic, and crime [*attached to file as Staff Exhibit # 1*].

Gaye Hambrice, 59152 Old CR 17, Goshen, was present in remonstrance. She stated that

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her property butts up to the subject property. She explained that the business located at this location will affect the traffic and the buses. She stated that the letter submitted when the petitioner filed, noted that their request is unusual. She mentioned that she monitors water quality on their property, noting there is a natural spring on their property. She explained that this area is beautiful, and this request would detract from it terribly. She stated that when Mr. Myers was explaining similar businesses, those businesses are miles away.

Donald Shaum, 22040 CR 20, Goshen, was present in remonstrance. He mentioned that he currently owns 100 acres including those properties neighboring the subject property. He expressed that he is not fully against this petition. He explained that it would cost roughly one million dollars to service the corner of the intersection for sewer and water. He added that water and sewer is available at the church at the intersection of CR 17 and CR 18. He stated that his one request is to square off the subject property to look presentable.

Dennis Lorenz, 22072 CR 20, was present in remonstrance. He stated that his wife was the one who sent in the letter. He mentioned that there is vacant land to the North and is wondering why the petitioners will not use that land.

Mr. Jones returned to the podium stating that the resident at 59152 Old CR 17 was correct about the submittal letter which stated that the request was unusual. He mentioned that with a PUD process, there is more control from the Plan Commission. He stated that he agreed with Mr. Shaum's comments. He stated that he brought a map and will leave it [*attached to file as Petitioner's Exhibit #1*]. When Mr. Campanello questioned if there will be outside storage, Mr. Jones answered no and that he believes it is not allowed.

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

Mr. Campanello stated that he believed this will be normal along CR 17. He added that he loves driving down CR 17 and he believes it is time to start looking at development. Mr. Stump questioned what kind of soil is at the subject property, Mr. Barker stated that he is not sure, noting that he is concerned with the run off. Mr. Stump questioned if the reinforced concrete wash pad will have a separator. Mr. Jones responded stating that it will be the same kind of oil separator that is used at car washes.

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

Motion: Action: Deny, **Moved by** Roger Miller, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone map change from A-1 to GPUD B-3 be denied in accordance with the Staff Analysis.

Vote: Motion failed (**summary:** Yes = 3, No = 5, Abstain = 0).

Yes: Lori Snyder, Roger Miller, Steve Warner.

No: Frank Lucchese, Jeff Burbrink, Philip Barker, Tom Stump, Tony Campanello.

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

Motion: Action: Approve, **Moved by** Roger Miller, **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 A-1 to GPUD B-3 be approved based on the following Finding by the Board:

1. The requested Zoning Map Amendment does comply with the Comprehensive Plan and that prior to construction, a Detailed Plan Unit Development will be submitted for approval.

Vote: Motion passed (**summary:** Yes = 5, No = 3, Abstain = 0).

Yes: Frank Lucchese, Philip Barker, Steve Warner, Tom Stump, Tony Campanello.

No: Jeff Burbrink, Lori Snyder, Roger Miller.

10. The application for an Amendment to an existing DPUD known as the BARKMAN DPUD, for Samuel E. & Mary Barkman represented by Abonmarche Consultants, on property located on the North side of US 6, 1,550 ft. East of CR 100, common address of 30235 US Highway 6 Ste 2 in Locke Township, zoned DPUD A-1, DPUD M-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0801-2017*.

Brad Mosness, Abonmarche Consultants, 1009 S. Ninth St., Goshen, was present representing the petitioner.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an Amendment to an existing DPUD known as the BARKMAN DPUD be approved in accordance with the Staff Analysis.

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

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

11. The application for a Zone map change from A-1 to DPUD A-1 and for Primary approval of a one lot minor subdivision to be known as CUSTOM WOOD FINISHING DPUD, for Joseph & Lisa Yoder represented by Abonmarche Consultants, on property located on the West side of CR 37, 1,600 ft. South of CR 36, common address of 64259 CR 37 in Clinton Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0865-2017*.

Brad Mosness, Abonmarche Consultants, 1009 S. Ninth St., Goshen, was present representing the petitioner. He explained that they have been operating for four years, and they currently have 6 employees and would like to have 12.

There were no remonstrators present.

A motion was made and seconded (*Lucchese /Miller*) 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** Philip Barker, **Seconded by** Frank Lucchese that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone map change from A-1 to DPUD A-1 and for Primary approval of a one lot minor subdivision to be known as CUSTOM WOOD FINISHING DPUD be approved in accordance with the Staff Analysis.

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

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

12. The Public Meeting Item – Declaratory Resolution for the Town of Middlebury TIF District was presented by Attorney Craig Buche, 130 N. Main, Goshen.

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

Motion: **Action:** Approve, **Moved by** Roger Miller, **Seconded by** Steve Warner.

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

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

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

It should be noted this was heard previously as item # 6 on page 2.

14. *2018 Agreement of Legal Services for Attorney Kolbus*

It should be noted this was heard previously as item # 7 on page 3.

15. There were discussion amongst Board about the Core Civic case coming to the Board in February and discussion about CR 17.

16. There was a brief discussion about appointing a Nominating Committee for 2018 positions.

Motion: **Action:** Approve, **Moved by** Tom Stump, **Seconded by** Tony Campanello that Roger, Steve, and Jeff be appointed as a nominating committee for 2018 positions. The motion was passed unanimously.

17. The meeting was adjourned at 11:40 a.m.

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Respectfully submitted,

Kristi Shaffer, Recording Secretary

Roger Miller, Chairman