

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 9TH DAY OF AUGUST 2018 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, Jeff Burbrink. 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, Steven Edwards, Roger Miller, Steve Warner, Lori Snyder, Jeff Burbrink, Frank Lucchese, Philip Barker.

Absent: Tom Stump.

2. A motion was made and seconded (*Edwards/Miller*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 12th day of April 2018, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Warner/Miller*) 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 the Vacation of a County right-of-way known as MOORE AVE, for Board of County Commissioners of the County of Elkhart represented by Kindig & Sloat PC, on property located on the East side of CR 7, 650 ft. South of CR 20, in Concord Township, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0455-2018*.

Charlie Zercher, Kindig & Sloat, 102 Heritage Pkwy, Nappanee, was present representing the petitioner. He explained that the purpose of the Vacation of right-of-way is to allow more space for future development for a storage facility. He mentioned that the adjacent landowners to the West and to the South gave consent for the Vacation to be approved. When Mr. Miller questioned if it was a developed road, Mr. Zercher responded that it is not.

Marvin Grabill, 27112 CR 20, was present in remonstrance. He mentioned that he received a letter in the mail for this petition. He explained that he feels that the letter was wrong and there was an error with the directions.

Russell Ritchie, 27074 CR 20, is present in remonstrance. He mentioned that his letter is for Nelson Ave vacation. He stated that he thought it was for this petition but it is for the next petition.

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** Lori Snyder that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the

Vacation of a County right-of-way known as MOORE AVE 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, Steven Edwards, Tony Campanello.

5. The application for the Vacation of a County right-of-way known as NELSON AVE, for Board of County Commissioners of the County of Elkhart represented by Kindig & Sloat PC, on property located on the East side of CR 7, 410 ft. South of CR 20, in Concord Township, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0456-2018*.

Charlie Zercher, Kindig & Sloat, 102 Heritage Pkwy, Nappanee, was present representing the petitioner. He explained that this petition is similar to the previous petition. He stated that Nelson Ave is located within the Plat. He mentioned that they do have signed consent from most of the neighboring properties except for three. He added that the goal is the same as the previous petition for future development of a storage facility. Mr. Barker questioned the location of the three lots that have not consented. Mr. Zercher responded that they are lots 6, 7, and 8. When Ms. Snyder questioned if there is pavement on Nelson Ave., Mr. Zercher answered no, however a couple neighboring property owners use it as access for their properties. Ms. Snyder questioned if those owners gave consent. Mr. Zercher stated yes, and they are numbers 9 and 10 on exhibit D. Mr. Campanello questioned if the homeowner of the lot further West gave consent. Mr. Zercher responded that the homeowner is Jeremiah Matthews and he has given consent.

Janet Bartley, 57995 CR 7, Elkhart, was present in favor of the petition. She stated that she was unaware that there was a right-of-way located there named Nelson Ave. She mentioned that if the County will not maintain the road, then she feels that it should be given to the neighboring properties. She added that they currently maintain it and their drive way is partially on Nelson Ave. When Mr. Campanello questioned if she was aware what the petitioner wants to put on the property, Ms. Bartley responded yes, and she has no issues with that proposal.

Russell Ritchie, 27074 CR 20, Elkhart, was present in remonstrance. He stated that he has letters from the adjacent neighbors in remonstrance as well [*attached to file as Remonstrator Exhibits # 1, 2, and 3*]. Mr. Ritchie mentioned that he is a serious gardener and would like to have the access to the rear of his property. He added that he does not want to have a storage facility on the subject property that is located South of Nelson Ave. He explained that within a five mile radius there are 13 storage facilities, and some of those are going out of business.

Charlie Zercher returned to the podium. He stated that Mr. Ritchie's statement doesn't pertain to this petition. He added that the land use issues are for another petition when that is filed. He explained that at this time this is just for the Vacation of Nelson Ave.

Mr. Campanello questioned if Mr. Ritchie's testimony is allowed in the minutes. Mr. Kolbus stated that the Board can allow the testimony in the minutes; however, you give it the weight is necessary based on the law. Mr. Burbrink stated that essentially the Board is looking at the Vacation of the right-of-way not the use of the land. Mr. Miller stated that one of the remonstrator letters states that the land owner will lose access to his land; however, their access to their land is off of Mishawaka Road. Mr. Kolbus mentioned that it looks like they all have access off of Mishawaka Road. Ms.

Snyder was questioning if by Vacating the right-of-way is part of the plan for buffers. Mr. Zercher responded yes, that extra 25 feet will give the petitioner enough room to create the Class 2 buffer.

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

Motion: Action: Approve, **Moved by** Lori Snyder, **Seconded by** Jeff Burbrink that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the Vacation of a County right-of-way known as NELSON AVE be approved in accordance with the Staff Analysis.

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

Yes: Jeff Burbrink, Lori Snyder, Steven Edwards.

No: Frank Lucchese, Philip Barker, Roger Miller, Steve Warner, Tony Campanello.

Mr. Miller stated that they cannot put a condition on the Vacation. Mr. Warner stated as mentioned the Board will be denying access to the neighboring property owners and there are 3 opposed to the Vacation as well. Mr. Miller stated that the Board tries to approve the Vacations when all neighboring property owners are in agreement.

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

Motion: Action: Denied, **Moved by** Tony Campanello, **Seconded by** Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the Vacation of a county right-of-way known as NELSON AVE be Denied.

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

Yes: Frank Lucchese, Philip Barker, Roger Miller, Steve Warner, Tony Campanello.

No: Jeff Burbrink, Lori Snyder, Steven Edwards.

6. The application for a Zone map change from A-1 to M-1, for Forest River Manufacturing, LLC (Buyer) & Town of Millersburg (Seller), on property located on the West side of SR 13, 2,210 ft. South of CR 40, in Clinton Township, zoned A-1, DPUD M-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0377-2018*.

Ben Eldridge, Town of Millersburg, 201 W. Washington St., was present as the petitioner. He stated that Millersburg is in support of this petition and Forest River has a need in their community. He mentioned that there is sewer and water access on the property. He explained that there are mains going through on the East side and Forest River is aware of the utility setback requirements.

There were no remonstrators present.

A motion was made and seconded (*Lucchese/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** Roger Miller, **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-1 to M-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, Steven Edwards, Tony Campanello.

**** It should be noted that Lori Snyder steps down****

7. The application for a Zone map change from PUD R-4 (expired) to B-2, for MPWW & N, LLC represented by Marbach, Brady & Weaver, Inc., on property located on the West side of CR 7, 290 ft. North of Edwards Rd., common address of 53633 CR 7 in Osolo Township, zoned PUD R-4, was presented at this time.

Matt Shively presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0449-2018*.

Chris Marbach, Marbach, Brady & Weaver, 3220 Southview Dr., was present representing the petitioner. He explained that the property was zoned PUD R-4 and it has statutorily expired. He added that there is an office type building located on the subject property that has been vacant for several years. He mentioned that someone is interested in purchasing the building for an office. Mr. Marbach explained that with correspondence with the staff they decided the best zoning for the future use of the property would be B-2. When Mr. Campanello questioned what the neighboring property building and zoning is, Mr. Marbach responded that it is a church and the zoning is R-1. Mr. Marbach explained that the property to the West is the airport.

Andy Myers, Myers Trust Real Estate, 2809 Ferndale Rd, Elkhart, was present in favor of the petition. He explained that he is helping KY Ventures, a holding company for My Tech Corporation, which is a large electronic manufacturing and engineering firm. He added that they make speakers and other tech items. He mentioned that they are planning to have an engineering office on the subject property. He explained that the company has around 15 current employees and want to expand.

John Hollis, 53632 CR 7, was present in remonstrance. He explained that he lives across the street from the subject property and attends the church that is neighboring the property. He expressed that his concern is the possibility that the front of the lot could be sold off in the future. He stated he feels that there should be something in place that makes it more restrictive since there are residential zonings around the subject property. He stressed that he is also concerned about additional traffic and feels that CR 7 should be widened or an entrance access needs to be created. He explained that what Mr. Marbach stated was incorrect and the subject property has only been vacant for about six months. He added that there was an autism business that rented out the building but they have relocated about six months ago.

Chris Marbach returned to the podium. He stated that he wants to remind the Board that if the front of the parcel is sold off in the future a buffer will then need to be created. Mr. Campanello questioned how far South is the nearest business zone, Mr. Lucchese responded it would be the Harley Davidson shop. Mr. Campanello stated that it would be hard to widen CR 7 without taking a portion of the property owners land.

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

Mr. Miller stated that it doesn't feel right to have a business in the middle of a residential

area. Mr. Campanello stated that there is a reason for it being zoned a PUD R-4 previously.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **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 PUD R-4 (expired) to B-2 be approved in accordance with the Staff Analysis.

Vote: Motion passed (**summary:** Yes = 6, No = 1, Abstain = 1).

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

No: Philip Barker.

Abstain: Lori Snyder.

*****It should be noted that Lori Snyder returned at this time*****

8. 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 GOLDENROD CORPORATE OFFICE DPUD, for Mennonite Disabilities Committee, Inc. DBA Goldenrod (Buyer) & Clarence T. & Ideana Yoder (Seller) represented by Abonmarche Consultants, on property located on the Southwest corner of CR 36 and CR 41, common address of 11642 CR 36 in Clinton Township, zoned A-1, was presented at this time.

Duane Burrow presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0457-2018*.

Brad Mosness, Abonmarche Consultants, 1009 S. Ninth St., Goshen, was present representing the owners and contingent purchasers of the property. He stated that Goldenrod is currently located on College Ave in Goshen. He added that they are running out of room at the current location and that those existing facilities would require significant work. He mentioned that Goldenrod has been searching for a piece of property that will fit their needs and feels that they have found the one. He explained that by getting approval of this petition it will allow them to better serve the County. He added that they have locations currently in Goshen, Middlebury, and Lagrange County. Mr. Mosness explained that the existing residence is fairly new but would be renovated into offices. He added that the building to the South would be renovated into their day services, and the existing swimming pool would offer therapeutic activities. He noted that there will be no overnight stays on the subject property. He continued explaining that they have spoken with the Elkhart County Surveyors' office and the offsite drainage would be made separate. Mr. Mosness further explained that Goldenrod hired a septic designer and will be installing a new septic system for the day center and the existing septic will be used for the offices. He stated that Goldenrod has hired a company to evaluate the existing water well and is in good shape. He added that there has been communication with the State of Indiana for a commercial water well to be installed. Mr. Mosness explained that Goldenrod expects up to 40 people in the office, 15 staff members in the South building, and 20 volunteers depending on the day. He added that the participants would be bused in by Goldenrod's Goshen campus.

Tammy Friesen, CEO of Goldenrod, 2420 Redspire Blvd, Goshen, was present in favor of the petition. She stated that Goldenrod has existed in the community for going on 42 years providing

services to those who have intellectual and developmental disabilities. She stressed that what they do is very important in the community. She explained that 7500 individuals in Elkhart County alone are diagnosed with an intellectual or developmental disability. She continued explaining that all of the providers in the County are only meeting 20% of that need. She explained that this new location will allow Goldenrod to provide services to more individuals across Elkhart County as well as Lagrange County. She continued explaining that there is only one provider for day care in Elkhart County, which is ADEC. She reminded the Board where ADEC locations are, which are on busy roads. She added that traffic creates a danger for those who want to go outside. She stressed that the participants will not be isolated in the middle of nowhere, they will be able to participate in activities throughout the County. She mentioned that there will not be 200+ cars due to the participants being bused in and then those busses will leave the property. Ms. Friesen stated that they have the support of the surrounding neighbors. She explained that the land has been vacant for five years and it is time to be put to good use.

Brad Mosness returned to the podium. He stated that Goldenrod requested an additional sign at the intersection of CR 36 and CR 41.

Vicky Witmer, 64669 Orchard Dr., Goshen, was present in favor of the petition. She stated that three of her children will be able to participate in this service. She stressed that this opportunity will not isolate her children but give them the opportunities that they would not be able to have anywhere else. She believes that it will be an amazing addition and asset to the community.

Gary Whirlledge, 11513 CR 36, Goshen, was present in favor of the petition. He stated that he resides directly across the street from the subject property. He stated that he has been concerned about the future of the property since being put up for sale five years ago. He believes that this a much favorable outcome instead of a commercial business.

There were no remonstrators present.

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

Mr. Campanello stated that he understands the staff's recommendation to deny the petition but feels that this use is not a typical corporate office. He added that in the area there are special uses and home workshop/businesses. He expressed that he feels that this location is the right area for the facility. Mr. Warner stated that he is familiar with the area and the facility has been empty for quite some time; however he has concerns about the potential problems with the gravel road and drainage. He added that the use for the property is an excellent opportunity for Goldenrod. Mr. Miller stated that what the Board is questioning is the appropriate use of the location and the traffic. He mentioned that there are business type facilities in the area. Mr. Burbrink stated that the second sign needs to be addressed. Ms. Snyder questioned what the size of the signs will be. Mr. Mossness stated that the maximum surface area would be about 200 sq. ft.

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 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 GOLDENROD CORPORATE OFFICE 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, Steven Edwards, Tony Campanello.

9. The application for an Amendment for an existing DPUD to be known as NORTHRIDGE CENTER DPUD and Primary approval of a 4 lot major subdivision to be known as NORTHRIDGE CENTER DPUD, for Northridge Mall, Inc. represented by Hand to Plow Surveying, on property located on the Northeast corner of Heritage Dr. and US 20, common address of 851 US Highway 20 in Middlebury Township, zoned DPUD B-3, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0447-2018*.

Scott Zeigler, Hand to the Plow Surveying, 5678 W. 350 S., Albion, was present representing the petitioner. He stated that they are not planning on adding additional buildings. He explained that there is a Dollar General store on the East side and on the West side is a restaurant business. He stated that the reason for this petition is to be able to sell off the individual stores. He mentioned that the utilities enter the buildings on the South side. When Ms. Snyder stated that it sounds in comparison as condo units, Mr. Zeigler agreed.

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. Barker stated that this is no different than single family attached residences. Ms. Snyder stated that it seems to be a great idea. Mr. Miller stated that all this petition is trying to do is to separate the buildings to sell each building off individually.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steven Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an Amendment for an existing DPUD to be known as NORTHRIDGE CENTER DPUD and Primary approval of a 4 lot major subdivision to be known as NORTHRIDGE CENTER 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, Steven Edwards, Tony Campanello.

10. The application for Secondary approval of a four lot major subdivision to be known as NORTHRIDGE CENTER DPUD, for Northridge Mall, Inc. represented by Hand to Plow Surveying, on property located on the Northeast corner of Heritage Dr. and US 20, common address of 851 US Highway 20 in Middlebury Township, zoned DPUD B-3, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0448-2018*.

Scott Zeigler, Hand to the Plow Surveying, 5678 W. 350 S., Albion, was present

representing the petitioner. He stated that he has nothing to add due the Primary approval being the previous petition.

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** Philip Barker that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Secondary approval of a 4 lot major subdivision to be known as NORTHRIDGE CENTER 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, Steven Edwards, Tony Campanello.

Fee Schedule was presented by Chris Godlewski. He presented a paper explaining the changes [*attached to minutes as Staff Exhibit #1*]. Mr. Godlewski explained that the reason for the fee changes is part of clean up, addressing a need for Amendments, and adjusting two fees upward.

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 approved the changes to the fee schedule with the effective date of October 1, 2018. The motion was carried unanimously.

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

Jason Auvil reported that on July 2, 2018, the Board of County Commissioners approved a Zone map change from A-1 to M-1 for HTIW Properties, LLC. Mr. Auvil stated that on July 16, 2018, the Board of County Commissioners approved a Zone map Change from A-1 to M-1 for Steven C. & Linda K. Vlaeminck, and a Zone map change from A-1 to A-4 for Jeremy M. & Susie May Weaver. He added that the Board of County Commissioners approved an Amendment and Primary approval of a 55 lot Major subdivision to be known as Falcons Nest at Barrington Section Two and Section Three, and the Secondary approval for Falcons Nest at Barrington Section Two and Section Three. Mr. Auvil also reported that on July 16, 2018, the Board of County Commissioners approved a Zone map change from A-1 to DPUD A-1 and Primary approval for a one lot minor known as Cloverleaf Finishing DPUD, and Zone map change and Primary approval of a one lot minor known as Nisley Wood Shop DPUD.

12. A motion was made and seconded (*Lucchese/Edwards*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10: 37 a.m.

Respectfully submitted,

Kristi Shaffer, Recording Secretary

Jeff Burbrink, Chairman