

PLAN MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 13TH DAY OF DECEMBER 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 Vice Chairman, Steve Warner. 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, Tom Stump, Frank Lucchese, Philip Barker.

Absent: Lori Snyder, Jeff Burbrink.

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 8th day of November 2018, be approved as submitted. The motion was carried with a unanimous vote.

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

4. The application for a Zone map change from R-2 to M-1, for 82974 LLC, on property located on the South side of Leland Rd., 355 ft. East of SR 19, common address of 26326 Leland Rd. in Osolo Township, zoned R-2, was presented at this time.

Matt Shively presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0713-2018*.

Patty Piscione, Carter's Tire, 3704 Cassopolis St., Elkhart, was present as the petitioner. Mr. Lucchese questioned if they are looking to expand the existing building. She explained she wanted to get all of the property they own the same zone.

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.

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

Motion: Action: Approve, **Moved by** Frank Lucchese, **Seconded by** Steven Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone map change from R-2 to M-1 be approved in accordance with the Staff Analysis.

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

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

No: Philip Barker, Tom Stump.

5. The application for a Zone map change from R-2 to DPUD B-3 to be known as CONCORD

CORNERS DPUD, for Panchos Land Development, LLC represented by Progressive Engineering, Inc. , on property located on the East side of CR 13, common address of 59156 CR 13 in Concord Township, zoned R-2, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0733-2018*.

Brad Cramer, Progressive Engineering, Inc., 58640 SR 15, Goshen, was present representing the petitioner. He stated that this will be used for selling storage sheds. He explained that on the South side of the property is Jewel Court. He added that the Elkhart County Highway was looking into an entrance off of Jewel Court. He explained that the detached garage will be remodeled into a sales office.

Stephen Miller, 17772 CR 112, Bristol, was present in favor of the petition. He stated that he has noticed a slow deterioration of the properties along U.S. 33. He added that he feels that if the properties along U.S. 33 changes from residential to commercial it would be more attractive and better use of the land.

Teresa Kline, 59190 CR 13, was present in remonstrance. She stated that her residence is the second house adjacent to the subject property. She stated that this was heard previously as a straight rezoning and was denied. She mentioned that the Staff Report stated that in a B-3 zone is a heavy business zone to accommodate uses related to vehicular traffic and equipment. She stated that CR 13 is purely residential and not a heavy business corridor. She added that she has concerns about her property values. She mentioned that she is also concerned about drainage, lighting, traffic, and signage. She stated that it looks like the owner is going to put trees in as a buffer. She added that on one page of the documents that were submitted states one thing but the next page states another. She explained that the plan is very vague and needs a more definitive plan. She expressed concerns about the students and faculty at the school that is located adjacent from the subject property.

Nate Koets, Director of Facilities for Concord Schools, 59040 Minuteman Way, was present in remonstrance. He stated that Concord Intermediate is located across the street from the subject property. He added that Concord Intermediate is for 5th and 6th graders and they also have students that have special needs such as deaf and emotionally disabled children. He added that they currently have roughly 900 students, 27 busses delivering students and picking them up in the afternoon, and roughly 200 drop-off/pick-up students each day. He stated that the school corporation has concerns about the traffic in the area. He added that the overflow spills onto CR 13 and is tight. He expressed concerns about noise, and is wondering if anything will be built on site.

Susan Davis-Krallman, 59178 CR 13, is present in remonstrance. She explained that her residence is directly across the street which is South of the subject property. She mentioned that parents sometimes sit in line right in front of Jewel Court waiting to get in to pick-up/drop-off students. She stated that she has a petition that neighbors have signed in remonstrance of this petition [*attached to file as remonstrator exhibit #1*]. She added that there are two basketball hoops on Jewel Court that kids like to play on. She added that she is also concerned about her property values. She explained that her bedroom window faces the subject property and is concerned about noise and light.

Brad Cramer returned to the podium. He stated that he is unsure of the shed sizes. Mr. Campanello stated that the dimensions are on the plans. He stated that the plan is to not have restrooms in the remodeled garage. Mr. Campanello questioned if any construction will be done on site. Mr. Cramer stated that these will be strictly brought in by trailer. Mr. Warner questioned about

designated area for parking. Mr. Cramer explained that there is two spots and is located in front of the garage.

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

Mr. Miller stated that he is concerned about the traffic in the area and the space being very slim. Mr. Campanello stated that he does not see how this works with the comprehensive plan. He added that it is mostly a residential area. He expressed that he does not feel that this is the right place for a business being in a residential area.

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 a Zone map change from R-2 to DPUD B-3 to be known as CONCORD CORNERS DPUD be approved in accordance with the Staff Analysis.

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

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

No: Philip Barker, Tom Stump.

6. The application for a Zone map change from A-1 to DPUD A-1 to be known as CULVER DUCK DPUD, for Culver Duck Farm Inc. In Corp represented by Hand to Plow Surveying, on property located on the South side of CR 10, 780 ft. West of SR 13, common address of 11590 CR 10 in York 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-0734-2018*.

Scott Zeigler, Hand to Plow Surveying, 5678 W. 350 S., Albion, was present representing the petitioner. He stated that initially the building was used for a church and has been abandoned for several years. He explained that they want to remodel the inside of the building to add a meeting room and office spaces for Culver Duck employees. He added that 25-30 employees will be onsite. He stated that the storm water can be contained onsite.

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** Philip Barker, **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 DPUD A-1 to be known as CULVER DUCK DPUD be approved in accordance with the Staff Analysis.

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

Yes: Frank Lucchese, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

7. The application For a Zone map change from A-1 to M-1, for Bright Star Realty and Auctions LLC (Buyer) & Five MC Corporation (Seller) represented by , on property located on the Northwest corner of CR 12 & SR 13, common address of 11751 CR 12 in York 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-0653-2018*.

Loren Beachy, 614 Bristol Ave, Middlebury, was present as the petitioner. He explained that he has recently purchased the property and has plans to move in shortly. He added that his plans are to use the existing house for an office, equipment storage and use the existing driveways. He stated that they want to try to get an additional drive way off of CR 12. He stated that the rear of the property would be used for a retention pond and parking. Mr. Campanello questioned what the businesses are around the subject property. He explained that on the Northeast corner of CR 12 and SR 13 is an orthopedic facility, and Southeast corner of CR 12 and SR 13 is Meijer Distribution center. He added across the street from him to the South is RV storage.

L J White, 412 W. Berry St., Middlebury, was present in favor of the petition. He stated that he has known the petitioner for years. He added that they have good intentions and integrity and they also want to help the community.

Clara Morse-Fry, 54895 SR 13, was present in remonstrance. She stated that they are adjacent to the property to the North side and West side. She is concerned about losing the country feel by having more manufacturing around and she hopes maintenance of the property will be better.

Loren Beachy returned to the podium. He stated that they will be working on the house and cleaning up the leaves. He added that there will not be any manufacturing on the property. He explained that they are asking for a M-1 zone so it will allow the auctions to take place on the property. He expressed that the property will only be used to have auctions and store the equipment for the auctions.

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 is concerned about straight rezonings. He stated that his concern with any straight rezoning is that they do not go through a technical review. He is concerned on how the drainage will work with the parking and the retention pond.

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

Motion: Action: Approve, **Moved by** Steve Warner, **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 M-1 be approved in accordance with the Staff Analysis.

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

Yes: Frank Lucchese, Roger Miller, Steve Warner, Steven Edwards, Tom Stump.

No: Philip Barker, Tony Campanello.

8. The application For a Zone map change from A-1 to M-2, for Transport Indiana LLC

represented by Abonmarche Consultants, on property located on the 1,350 ft. South off of CR 42, ¼ mile West of East County Line Road , common address of 10210 CR 2 in York Township, zoned A-1, was presented at this time.

The Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0659-2018*.

Chris Godlewski stated that the petitioner has requested to table this petition and the Staff Report/Staff Analysis does not have to be read.

Jason Auvil reported that 24 people are in opposition of this petition at the hearing.

Captain Jeff Zavatsky, 11976 W. 745 N., Middlebury, was present in remonstrance. When Mr. Campanello questioned if he spoke at the last meeting, Mr. Zavatsky responded yes. He stated that the drainage issues are still a major concern. He stated three years ago there was a commitment drawn up and the requirements were not checked on. Mr. Miller questioned what happens to his property on Stone Lake if water is sitting on the subject property. Mr. Zavatsky answered by explaining that water get backed up on property owners yards and in their basements due to not being able to flow North. Mr. Stump stated that the letter that was submitted addresses what will be done with the property in terms of the drainage.

Shirley Noble, Vice President of Conservation, 11790 W. 750 N., was present in remonstrance. She stated that she is asking the Board to not let the petitioners do anything new until they take care of the issues at hand. She added that she feels that the council should check up on the petitioner and make sure what is required is done.

Dave Manning, 11750 W. 710 N., Middlebury, was present in remonstrance. He explained that he grew up on Stone Lake from the mid 1980s through the 1990s. He stated that he has a crawlspace under the residence. He added that if he has to work on anything in that crawlspace he has to wear a pair of waterproof waders. He mentioned that when he pumps out the crawlspace the water is back within hours. He explained that he has lost 35-40% of his property and added that lake front property is not cheap. He added that his satellite dish is five inches under the water and he has retaining wall on the East and West side that are completely covered. He mentioned that he has not had to mow his lawn this summer due to his yard being squishy.

Steve Delusky, 7465 N. 1200 W., was present in remonstrance. He stated that he is concerned about the roads. He is also concerned about the traffic and about someone getting hit. He added that there are two signs that state no through trucks, but those signs do not work.

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

Motion: Action: Table, **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 M-2 be tabled indefinitely. The motion also included that full re-notification occur at the petitioners' expense.

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

Yes: Frank Lucchese, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

9. **2019 Agreement of Legal Services for Attorney Kolbus**

Chris Godlewski presented the agreement for legal services to retain Jim Kolbus for 2019.

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

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

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

Jason Auvil reported that on November 19, 2018, the Elkhart County Commissioners approved a Zone map change from B-1 to B-3, an Amendment to an existing DPUD known as TRP International DPUD, and Zone map change and Primary approval for West 78 Industrial Park DPUD. He added that on November 19, 2018, the Town Council of Middlebury approved a Zone map change from R-2 to B-2 for First State Bank of Middlebury. Mr. Auvil stated that on November 26, 2018, the Town Council of Bristol approved a Vacation of Apollo St. for the Town of Bristol, and a Vacation of a North/South alley right-of-way for K.B.T. Limited II, Inc.

Rex Pranger, who is the Lagrange County Surveyor, was present. He stated that he has met with Phil Barker and Chris Godlewski back in June of this year. He explained that the owner and contractor filled in the ditch and put in a flat four inch pipe. He stated that he is surprised that lawsuits have not been happening because of water backing up into land owners' properties.

11. A motion was made and seconded (*Miller/Lucchese*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:46 a.m.

Respectfully submitted,

Kristi Miller, Recording Secretary

Steve Warner, Vice Chairman