

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 14TH DAY OF FEBRUARY 2019 AT 9:00 A.M. IN THE
MEETING ROOM OF THE DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairman, Steve Warner. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Mae Kratzer, Planner; Matt Shively, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

* Roll Call.

Present: Roger Miller, Steve Warner, Lori Snyder, Tom Stump, Philip Barker.

Absent: Tony Campanello, Steven Edwards, Jeff Burbrink, Frank Lucchese.

2. A motion was made and seconded (*Barker/Stump*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 10th day of January 2019, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Stump/Snyder*) 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. ***Election of Officers***

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Lori Snyder that the request to accept the 2018 Officers and Appointments be approved. The motion was carried with a unanimous vote. [attached to minutes]

5. The application for Primary approval of a five lot major subdivision to be known as REPLAT OF LOT 3A IN REPLAT OF LOTS 2 & 3 IN HERITAGE TRAILS, for Alvin J. Heims represented by Progressive Engineering, Inc., on property located on the East side of CR 43, 3,500 ft. North of CR 10, in York Township, zoned A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0009-2019*.

Stephanie Floyd, Progressive Engineering, 58640 SR 15, Goshen, was present representing the petitioner. She stated that they are adding to the existing plat by creating more lots.

There were no remonstrators present.

A motion was made and seconded (*Miller/Stump*) 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** Roger Miller that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Primary

approval of a five lot major subdivision to be known as REPLAT OF LOT 3A IN REPLAT OF LOTS 2 & 3 IN HERITAGE TRAILS be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

6. The application for Primary approval of a four lot major subdivision to be known as REPLAT OF LOTS 36, 38, 40, & 42 of JACKSON TERRACE PHASE 3, for Spartin Development, LLC, Jeffery & Joy Vandiepenbos, and Jon K. & Mary H. Hummel represented by Abonmarche Consultants, on property located on the Southwest side of Woodridge Ct., South of Terrace Trail, East of CR 21, common address of 69375 Woodridge Ct in Jackson Township, zoned A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0007-2019*.

Brad Mosness, Abonmarche Consultants, 1009 S. Ninth St., was present representing the petitioner. He stated that this corrects the West line of the subdivision that was originally platted. When Mr. Stump questioned if these were already lots in the subdivision, Mr. Mosness responded yes.

Travis Walter, 69274 CR 21, was present in remonstrance. He mentioned that his property is to the West of the subject properties. He stated that he will be in favor of the Replat if the lines match his lines this time. He added that previously the property lines of the subdivision were placed on his property.

Terry Keck, 69262 CR 21, was present in remonstrance on behalf of his mother. He explained that his mother resides just West of the subject property. He stated that there is a pie shape piece of land between his mothers parcel and the subject properties that his mothers owns. It was lost when the original plat was created. He is hoping that now with the Replat the property lines will be corrected.

Brad Mosness returned to the podium. He stated that they were brought in by Spartin Development to investigate the discrepancies. He explained that they did find that the property lines did overlap onto Mr. Keck and Mr. Walters properties. He added that this Replat does bring the property lines back to where they are supposed to be. When Ms. Snyder questioned if the right property owners will own the pie shape pieces, Mr. Mosness stated yes.

A motion was made and seconded (*Miller/Snyder*) 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 Primary approval of a four lot major subdivision to be known as REPLAT OF LOTS 36, 38, 40, & 42 of JACKSON TERRACE PHASE 3 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

7. The application for Secondary approval of a four lot major subdivision to be known as REPLAT OF LOTS 36, 38, 40, & 42 of JACKSON TERRACE PHASE 3, for Spartin Development, LLC, Jeffery & Joy Vandiepenbos, and Jon K. & Mary H. Hummel represented by Abonmarche Consultants, on property located on the Southwest side of Woodridge Ct., South of Terrace Trail, East of CR 21, common address of 69375 Woodridge Ct in Jackson Township, zoned A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0008-2019*.

Travis Walter, 69274 CR 21, was present and had a question about the utility easement. Ms. Snyder stated that she does not know if that can be answered at this meeting since they are here to look at the land and property lines.

Chris Erb, Spartin Development, 1849 W. Lincoln Ave, was present. He stated that they did extensive surveying and submitted documents to the attorney. He added that the attorney agreed with the survey.

A motion was made and seconded (*Miller/Stump*) 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** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Secondary approval of a four lot major subdivision to be known as REPLAT OF LOTS 36, 38, 40, & 42 of JACKSON TERRACE PHASE 3 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

8. The application for a Zone map change from A-1 to M-1, for D & J Realty LLC An In LLC represented by Cressy Commercial, on property located on the Southwest side of CR 5, 6,707 ft. North of Bristol St., in Osolo 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-0816-2018*.

Ryan Gableman, Cressy Commercial, 4100 Edison Lakes Parkway, Mishawaka, was present representing the petitioner. He stated that the current zone is not realistic in the area. He explained that the airport is just North of the subject property. When Ms. Snyder questioned how many acres are still available, Mr. Gableman responded that there are three tracts and approximately 40 acres. Mr. Miller questioned if there is a residence across the road of the subject property. Mr. Gableman stated that he thinks there is.

Larry Meteivier, Elkhart City Attorney, was present in favor. He stated that he is representing the Aviation Board and that they are in favor of the rezoning. He explained that the city purchased the parcel to the East and it will be used as airport property in the near future.

Marilynn Anson, 53541 Woodard Ct., was present in remonstrance. She wondered if the trees bordering her property lines will stay. She stated that she is wondering what kind of manufacturing will be placed on the property. Ms. Snyder stated that since this is a straight rezoning

the Board is unaware of what kind of manufacturing will be put in there.

Ryan Gableman returned to the podium. He stated that there is a tree line buffer currently along the subject property and the property to the West. He added that they are expecting to keep the tree line buffer. Mr. Stump stated that it would be a class 3 buffer. Mr. Stump questioned if the industrial park to the West is zoned pud. Mr. Gableman stated he thought it was PUD M-1 but believes that it is a straight M-1 zone.

A motion was made and seconded (*Miller/Stump*) 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** 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 M-1 be approved in accordance with the Staff Analysis.

Vote: Motion failed (**summary:** Yes = 2, No = 3, Abstain = 0).

Yes: Lori Snyder, Steve Warner.

No: Philip Barker, Roger Miller, Tom Stump.

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

Motion: Action: Denied, **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 M-1 be denied with the recommendation that they come back with a GPUD.

Vote: Motion failed (**summary:** Yes = 3, No = 2, Abstain = 0).

Yes: Philip Barker, Roger Miller, Tom Stump.

No: Lori Snyder, Steve Warner.

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

Motion: Action: Approved, **Moved by** Philip Barker, **Seconded by** Tom Stump that the Advisory Plan Commission passes the petition on to the Board of County Commissioners with no recommendation.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

9. The application for a Zone map change from GPUD B/R to A-1, for D-ACT-Z LLC represented by Freedom Builders, on property located on the West side of CR 19, South side of CR 14, and North side of US 20, in Jefferson Township, zoned GPUD B/R, was presented at this time.

Matt Shively presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0817-2018*.

Marlin Hochstetler, 65436 CR 43, was present representing the petitioner. He stated that the petitioner wants a straight A-1 zone and has no interest in getting it developed.

There were no remonstrators present.

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

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

10. The application for a Zone map change from A-1 to B-3, for Joshua Welker & Kathy Welker represented by , on property located on the North side of CR 45, 4,275 ft. East of Old CR 17, in Concord Township, zoned A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0013-2019*.

Joshua Walker, 219 E. Wabash Ave., was present as the petitioner. He explained that he and his wife currently own a small landscape company. He stated that his choice for the B-3 zone for this property was because of the guidelines in the Zoning Ordinance. He stated that their business has a mixture of features of material that will be stored outside and some stored inside. He stated that it is a design build firm. He explained that he reached out to all of the neighbors in the 300 foot zone with a letter explaining their intent and provided their phone numbers. He stated that he spoke to four neighbors that are located immediately adjacent to the subject property and they stated that they are in favor. He explained that this business is not a heavy business. Mr. Miller stated that when he drove past the property that there was a property for sale. Mr. Walker stated that it is the second parcel located Northwest of the subject property.

Jennifer Mulvihill, 21731 CR 45, was present in remonstrance. She explained that they purchased her property in April 2018 and said that she feels that she found the perfect place. She added that she works nights and sleeps during the day. She stated that her and her husband is worried about the property values. When Mr. Miller questioned which property was hers, Ms. Mulvihill responded that it is the one neighboring the subject property to the Northwest.

Joshua Walker returned to the podium. He thanked Jennifer for speaking. He stated that there will be some construction with an office area. He added that their plan is to keep the office in the center of the land and a garden center. He explained that he would like to put double the plants as a buffer.

A motion was made and seconded (*Barker/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** Tom Stump, **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 B-3 be denied in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

11. The application for a Zone map change from M-1/CIUD M-2 to M-2, for A. F. & J. R. LLC represented by Tim Sievers, on property located on the West side of Packard Ave, 600 ft. North of CR 4, in York Township, zoned M-1, CIUD M-2, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0014-2019*.

Tim Sievers, 6525 Ardmore Ave., Fort Wayne, was present representing the petitioner. He stated that they want to make the property all one zone. Mr. Miller questioned if there were any current plans on what is being put on the property. Mr. Sievers stated that there are no current plans. He added that they want to clean it up and make the property more viable.

There were no remonstrators present.

A motion was made and seconded (*Snyder/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** 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 M-1/CIUD M-2 to M-2 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

12. The application for a Zone map change from A-1 to DPUD R-2 and for Primary approval of a 10 lot major subdivision to be known as CANYON COVE DPUD, for Bill L. & Jo A. Bontrager represented by Progressive Engineering, Inc., on property located on the North side of Canyon River Dr., 900 ft. West of CR 115, North of CR 20, in Concord 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-0011-2019*.

Stephanie Floyd, Progressive Engineering, 58640 SR 15, was present representing the petitioner. She stated that the petitioner is looking to develop the land into a 55 and older community. She added that he has owned the land for quite some time and has been searching for different properties in Elkhart County to put smaller style homes for widowers or people that are looking to downsize. She mentioned that there is not a lot of area in the County to do some of these items. He has about 4 widowers and 2 couples who are interested currently. She stated that the traffic will not be heavy. She explained that he is looking into putting heavy buffers in and looked into different erosion measures.

Jason Auvil stated that staff received a lot of phone calls and emails about this petition that are in remonstrations. Mr. Auvil submitted those letters from Christopher Annis, 58811 River Forest Dr.; David Moss, 58781 River Forest Dr.; Karen Litwiller, River Forest Dr.; Walter Cueto, 22288 Canyon River Dr.; Nancy Roth & Edwin Burkholder, 22410 Canyon River Dr.; Andy & Courtney Wesdorp, 22340 Canyon River Dr.; Seth Schoetzow, 22351 Canyon River Dr.; Leslie Miller, 22240 Canyon River Dr.; and Sachin Agarwal, 22360 Canyon River Dr [attached to file as Staff Exhibit #1]. Bill Bontrager, 24201 Villa Ct., Elkhart, was present in favor of the petition. He stated that the

builder is knowledgeable with drainage and how to build quality residences. He stated traffic will not be heavy and drainage will be taken care of.

Lisa Schoetzow, 22351 Canyon River Dr., Elkhart was present in remonstrance. She explained that her and her neighbors on her street have met numerous times about this petition. She added that they are all concerned about the project. She has concerns about lighting affecting her and her neighbors. She also has a concern about the 55 plus requirement to reside in those residences. She added that 55 plus is not what it used to be, now those in that age range can have children. She explained that the size of the residences and the size of the lots do not fit in with the surrounding area. She stressed that there are a lot of water problems in the area. She stated that Mr. Annis that sent in a letter already has lots of water issues. The petitioner wants to drain the water through Mr. Annis' yard. She added however, he already has water that comes up to his door and sink holes on his property. She questions how will the 10 septic systems, 10 reserve tanks, and 10 wells fit on the acreage of the subject property. She stated that she could reside in Granger however they chose to pay taxes in Elkhart County and chose to live on a quiet street.

Tom Granitz, 58810 River Forest Dr., was present in remonstrance. He stated that he is the Homeowners Association President for River Forest Subdivision. He submitted two pictures of Mr. Annis' backyard showing the drainage issues [*attached to file as Remonstrator Exhibit #2*]. He explained to the Board the drainage and erosion in the area. He stated that he represents approximately 28 homeowners and has received 21 responses back stating that they are against this petition. He explained that he is supportive of the 55 plus neighborhoods and thinks that Elkhart County needs it. He added that it just does not make sense to have it in this area. He stressed his concerns about the density of the project.

Courtney Wesdorp, 22340 Canyon River Dr., was present in remonstrance. She stated that her and her husband chose where to build their residence. She added they chose this area due to the quality of the neighborhood. She stated that she has no doubt that the houses that will be built for the 55 plus neighborhood would be quality homes. Her concern is having ten residences on such a small parcel. She explained that the 14 children that reside on the street walk down Canyon River Dr. to catch the bus. She added that during a conversation with her husband in the car her daughter overheard. She added that her daughter is also concerned that she will not be able to ride down the road due to traffic concerns.

Stephanie Floyd returned to the podium. She stated that the developer will be shocked that the staff is recommending denial. She mentioned that the developer met with staff multiple times and has been very vocal with the plans for the area. She stated that the water flows South through the subject property. She added that she has been working with John Heiliger and Elkhart County personnel. She mentioned that most elderly people are down to one car. She added that there will be covenants and no exterior lighting like what is seen in mobile home parks. She stated that there will be nice sophisticated residences. Mr. Miller questioned if there is a buffer along Canyon River Dr., Ms. Floyd responded yes.

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

Mr. Barker stated that when he saw the plan and looked at the drainage calculations, he ran a program to calculate water shed. He added that the water shed is approximately 105 acres coming

onto the subject property. He explained that the soil is gravel like. He stated that the biggest challenge is controlling the water coming onto the site and keeping it from eroding. Mr. Miller stated that he does not see duplexes being put in the middle of single family residences. Mr. Warner stated that he agrees with Mr. Miller and is concerned about extreme density.

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

Motion: Action: Approved, **Moved by** Steve Warner, **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 DPUD R-2 and for Primary approval of a 10 lot major subdivision to be known as CANYON COVE DPUD be denied in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

13. The application for a Zone map change from A-1 to DPUD M-1 and for Primary approval of a one lot minor subdivision to be known as ENA PROPERTIES DPUD M-1, for Edward Jr. & Naomi Anthony represented by Marbach, Brady & Weaver, Inc., on property located on the Northeast side of CR 10, 1,500 ft. Northwest of CR 1, common address of 30789 CR 10 in Cleveland 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-0010-2019*.

Debra Hughes, Marbach, Brady & Weaver, Inc., 3220 Southview Dr., was present representing the petitioner. She stated that the petitioner is present as well. She mentioned that any type of construction business must be in an M-1 zone. She added that this is a concrete cutting company not a concrete construction company. She mentioned that the proposed building is on the site plan which is located on the far Northeast corner of the site. She added that the use is very light.

Josh Ridenour, 410 Ostemo Pl, South Bend, was present. He stated that all of the work is offsite. He added that this would be just a warehouse with an office and would have 2-3 employees.

Anthony Volheim, 52817 CR 1, was present in remonstrance. He stated that they own the strip of land to the East of the subject property. He stated that their water table in that area is completely saturated. He stated that he is also concerned about the wildlife.

Carson Volheim, 30091 CR 10, was present in remonstrance. He explained that he owns the property located in the Northwest corner of CR 10 and CR 1. He stated that he recently bought the property in 2017 from his great grandmother. He stated that having a manufacturing zone there would affect his pasture. He is concerned about it devaluing his farm as well. Mr. Miller questioned who owns the pie shaped wedge just North of his property. Mr. Volheim explained that he does but the toll road used to own it prior to his ownership

Debra Hughes returned to the podium. She stated that the property to the West was contacted by the petitioner. She stated that the petitioner spoke to the elderly gentlemen in person. She explained that the property was not purchased from the fire department however the fire department was authorized to use the land.

A motion was made and seconded (*Miller/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** 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 DPUD M-1 and for Primary approval of a one lot minor subdivision to be known as ENA PROPERTIES DPUD M-1 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

14. ***Middlebury Downtown TIF District:***

Craig Buche, 130 N. Main St., Goshen, was present. He stated that the Town has adopted a placatory resolution to amend the downtown TIF district for two parcels. He added that this is for Patrick Industries that is located on Yoder Dr. He explained that the two parcels have been annexed into the Town of Middlebury and they will provide a water loop. He mentioned that the Town is requesting approval of the two parcels being added to their TIF district.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump that the Advisory Plan Commission approves the written order which is consistent with the Comprehensive Plan.

The motion was carried with a unanimous vote.

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

Jason Auvil reported that on January 22, 2019, the Elkhart County Commissioners approved two rezonings, one for 82974, LLC and Bright Star Realty and Auctions, LLC. He added that they also approved a DPUD known as Culver Duck DPUD. He mentioned that they also approved a DPUD with conditions known as Concord Corners DPUD.

16. There was general conversation between the Board and Chris Godlewski about Ordinance updates. Chris Godleski stated that there are nine staff and board members. He added that 7 are citizen members and 3 Board members. He explained that the three Board members are Steve Warner, Lori Snyder, and Phil Barker.

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 approves the Zoning Ordinance Review Committee. The motion was carried with a unanimous vote.

16. A motion was made and seconded (*Miller/Stump*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 11:16 a.m.

Respectfully submitted,

Kristi Miller, Recording Secretary

Steve Warner, Chairman