

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 12TH DAY OF MARCH 2020 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, Zoning Administrator; Mae Kratzer, Planner; Doug Powers, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: Steven Edwards, Lori Snyder, Frank Lucchese.

2. A motion was made and seconded (*Miller/Campanello*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 13th day of February 2020, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Burbrink/Warner*) 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 portion of a north/south county right-of-way known as NURSERY DRIVE, for Jeremiah J. Matthews, Trustee Of Matthews Living Trust represented by Progressive Engineering, Inc., on property located on the north/south portion of Nursery Dr., 390 ft. north of CR 16, 360 ft. west of CR 13, in Concord Township, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0065-2020*.

Alecia Bame, Progressive Engineering, 58640 SR 15, Goshen was present representing the petitioner. She stated that the land owner is subdividing the lot to build a residence on the back portion of the subject property. She added that he is also wanting to vacate the last 100 feet of Nursery Dr.

Miranda Bader, 56849 Ramble Wood Lane, was present in remonstrance. She stated that her concern is losing road frontage and would hinder her ability to add a driveway. She mentioned that she would lose more than 50% of her road frontage. She explained that on the portion that would have road frontage after the vacation has mature trees. She added that she does not want to be required to remove those trees for a driveway. She stated that this would adversely affect her ability to construct a residence on that property. When Mr. Stump questioned where her residence was in comparison to the proposed vacated portion, Ms. Bader responded that it is the property to the East of the proposed vacated portion of Nursery Dr. Mr. Stump questioned if she would receive half of the vacated right-of-way. Ms. Bame answered no, it would all go to the petitioner. Mr. Miller questioned why she would not get half. Mr. Kolbus explained that if it was in the same subdivision the ownership would be split however, it is not in the same subdivision. Mr. Auvil explained that on the plat of the subdivision her lot is noted as an out lot. Mr. Auvil added that it is not considered a buildable lot, and

to make the lot buildable it would have to go through a replat. He mentioned that every owner in the subdivision would have to approve of the lot becoming part of the subdivision. Mr. Barker questioned if Nursery Dr. was county right-of-way, Mr. Auvil stated yes.

Debbie Anglin, 23553 Nursery Dr., was present in remonstrance. She mentioned that her and her husband has been maintaining the road for the last 24 years. She stated that the Elkhart County Highway department states that the road is a private owned lane not a county right-of-way. She stated that her concern is that traffic on Nursery Dr and who will maintain the road.

Terran Havlish, 56853 Ramble Wood Lane, was present in remonstrance. He stated that he was told Nursery Dr. was a county right-of-way and another access point for his property. He mentioned that if this is vacated then he would not have an additional access point to his lot. He explained that they are planning to improve their home with a swimming pool and addition to the residence. He mentioned that he wants to use Nursery Dr. as a way to get the equipment in.

Jeremiah Matthews, 56863 CR 13, was present as the petitioner. He explained the two properties that he owns. He added that he owns the subject property and the one to the north. He mentioned that he wants to divide the subject property to down size. He stated that he is willing to split half of the vacated right of way with the property owner to the west. Mr. Burbrink asked Mr. Matthews to answer the questions that the remonstrators were asking. Mr. Matthews stated that there will be no adverse effect to the neighboring properties. He explained that he is willing to help grade and maintain Nursery Dr.

Alecia Bame returned to the podium. She stated that one of the concerns were road frontage. Ms. Bame explained that in an R-1 zone the required road frontage is 80 feet. She added that with the vacated portion Ms. Bader would still have 85 feet of road frontage. She stated that she has not heard anything about updating or maintaining the drive. Mr. Campanello questioned if this vacation is required to help the size of the lot for a residence. Ms. Bame answered no. Mr. Campanello questioned if the Board decides to not pass this petition would a residence with the septic system still fit on the lot. Ms. Bame answered yes, and when it was first designed there was no thoughts as to wanting to vacate part of Nursery Dr. She added that without the vacation it is possible to still be able to subdivide that property.

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

Mr. Barker stated that if the property is being subdivided, he feels that Nursery Dr. should be improved. Mr. Godlewski stated that the Highway Department will not mandate that. Mr. Barker stated then the developer is responsible for that. Mr. Miller questioned if it is a public road. Mr. Godlewski explained that it is a public right-of-way that is not maintained.

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 the vacation of a portion of a north/south county right-of-way known as NURSERY DRIVE be approved in accordance with the Staff Analysis.

Vote: Motion failed (**summary:** Yes = 2, No = 4, Abstain = 0).

Yes: Roger Miller, Tony Campanello.

No: Jeff Burbrink, Philip Barker, Steve Warner, Tom Stump.

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

Motion: Action: Deny, **Moved by** Tom Stump, **Seconded by** Jeff Burbrink that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the vacation of a portion of a north/south county right-of-way known as NURSERY DRIVE be denied.

Vote: Motion passed (**summary:** Yes = 5, No = 1, Abstain = 0).

Yes: Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Tom Stump.

No: Tony Campanello.

5. The application for the vacation of a portion of a north/south and east/west county right-of-way known as COUNTY ROAD 137, for Joe Steven & Nancy Jo Brown represented by Kindig & Sloat, PC, on property located on the north/south portion of CR 137, 916 ft. north of South Co. Line Rd., and east/west CR 137, east of CR 37, in Benton Township, zoned A-1, was presented at this time.

Doug Powers presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0071-2020*.

Charlie Zercher, Kindig & Sloat, PC, 102 Heritage Parkway, Nappanee, was present representing the petitioner. He stated that this petition was initiated because the property owner wanted to build a barn on the property. He added that the petitioner owns the properties surrounding CR 137. When Mr. Campanello questioned if the road is dirt or asphalt, Mr. Zercher responded that it is farm field. Mr. Stump questioned if there was a bigger map to see the location in comparison to US 6.

Nancy Brown, 72811 CR 137, Syracuse, was present as the petitioner. She explained where the location is and what is in the vicinity.

There were no remonstrators present.

A motion was made and seconded (*Miller/Burbrink*) 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** Jeff Burbrink, **Seconded by** Tony Campanello that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the vacation of a portion of a north/south and east/west county right-of-way known as COUNTY ROAD 137 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

6. The application for Primary approval of a 31-lot major subdivision to be known as WINDING RIVER ESTATES PHASE FOUR, for D Afton Development & Lacus, LLC represented by Abonmarche Consultants, on property located on the west side of CR 37 & west end of CR 12, 2,050 ft. south of CR 10, in York Township, zoned R-3, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0075-2020*.

Crystal Welch, Abonmarche, 1009 S. Ninth St., Goshen, was present representing the petitioner. She stated that the lack of housing in Elkhart County is an issue. She mentioned that this phase of the subdivision was thought of when the first was created. She stated that they feel this meets the needs of the community and assists in the much needed housing in the community. She explained that the properties will be on well and septic. She mentioned that this will be along a beautiful park. When Mr. Miller questioned where the park runs, Ms. Welch stated that the park is to the west.

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.

Mr. Burbrink spoke about drainage issues and that they are trying to work that out.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Primary approval of a 31-lot major subdivision to be known as WINDING RIVER ESTATES PHASE FOUR be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

7. The application for a zone map change from GPUD R-4 & GPUD B-1 to A-1, for New Paris Development Company represented by Progressive Engineering, Inc., on property located on the north side of CR 46, 1,850 ft. west of CR 25, common address of 18561 CR 46 in Jackson Township, was presented at this time.

Doug Powers presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0076-2020*.

Alecia Bame, Progressive Engineering, 58640 SR 15, Goshen, was present representing the petitioner. She stated that they are wanting to rezone the property to be able to sell the residence.

There were no remonstrators present.

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** Roger Miller, **Seconded by** Philip Barker that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from GPUD R-4 & GPUD B-1 to A-1 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

8. The application for a zone map change from GPUD M-1 to DPUD M-1 and for Primary approval of a 1-lot minor subdivision to be known as BRISTOL PARK FOR INDUSTRY PHASE 2H DPUD M-1, for BCD Partners, LLC represented by Marbach, Brady & Weaver, Inc., on property located on the south side of Commerce Dr., 1,885 ft. west of CR 29, in Washington Township, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0064-2020*.

Debra Hughes, Marbach, Brady & Weaver, 3220 Southview Dr., Elkhart, was present representing the petitioner. She stated that the property is part of the Bristol Park for Industry. She explained that this is one of the last parcels available and will be a manufacturing facility. She mentioned that Ameri-kart Industries will be operating out of that facility with 270 employees upon opening. She added that there are wetlands that are on the property and those will be preserved.

Terry McCormick, 16885 SR 120, Bristol, was present in remonstrance. He explained where their residences are. He stated that the only thing he is asking for is a row of pine trees along their rear property line. He reiterated that they want something to block the view. When Mr. Kolbus questioned if he has seen the plans yet, Mr. McCormick responded no. Mr. Kolbus stated that they are proposing a railroad access and that would make it difficult to put in a buffer. Mr. McCormick stated that regardless of the railroad spur that something could be done. He added that he is also concerned about his property values.

Tom Stewart, 16553 SR 120, Bristol, was present in remonstrance. He mentioned that he has been at his property for 30 years. He explained that the properties to the North were all farmland and is concerned about the wildlife. He added that he is also concerned about the noise that a second railroad spur will cause. He stated that there should be some type of barrier put in place. Mr. Campanello mentioned that it could be hard to put a barrier in due to the spur. Mr. Stewart explained that along the existing railroad spur on a different property they have a fence.

Ryan McCormick, 16721 SR 120, Bristol, was present in remonstrance. He has questions about traffic with the closing of CR 29. He wondered if the traffic is going to increase substantially in town. Mr. Miller stated that it was initially shutdown due to trucks using the road.

Debra Hughes returned to the podium. She stated that they understand the concerns. She explained that another property along the railway has a spur and that they will be having a spur. She mentioned that the existing Ameri-kart locations will be relocated to this location. The use of the spur will be about 6 railroad cars once a week during business hours. She explained the hours would be between 6 a.m. to 6 p.m. When Mr. Miller questioned the manufacturer products, Ms. Hughes stated plastic. Mr. Stump questioned what kind of materials are coming in our out on the railroad. Ms. Hughes stated that Mr. Somerlott is available to answer Mr. Stumps' question.

Matt Somerlott, Nuway Construction, 2119 Carmen Ct., Goshen, came to the podium to answer Mr. Stump's question. He stated that the plan is to bring in plastic pellet material by using the railroad spur.

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

Mr. Stump questioned what requirements are for landscaping in this situation. Jason Auvil

explained that the railroad line is zoned A-1. He added that due to that zone the buffers are not required in this case.

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 Bristol Town Council that this request for a zone map change from GPUD M-1 to DPUD M-1 and for Primary approval of a 1-lot minor subdivision to be known as BRISTOL PARK FOR INDUSTRY PHASE 2H DPUD M-1 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

9. The application for a zone map change from GPUD E-3 to DPUD E-3 and for Primary approval of a 1-lot minor subdivision to be known as TIARA RV DPUD, for Tiara Property, LLC (Buyer) & Ludwig Investments, Inc. An In Corp (Seller) represented by Jones Petrie Rafinski, on property located on the northwest corner of CR 17 and CR 104, in Osolo Township, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0070-2020*.

Matt Schuster, Jones Petrie Rafinski, 300 Nibco Parkway Ste 250, was present representing the petitioner. He stated that this property has been zoned commercial for the past several years. He added that Tim with Tiara RV is present as well. He explained that the typical hours are Monday-Saturday 8 a.m. to 6 p.m. He stated that they agree with the Staff Analysis and hope for approval.

Kent Hall, 22171 CR 104, was present in remonstrance. He stated that they have lived at the property for 50 years. He stated that he has concerns about property values, taxes, and the timeline of the project.

Jeff Hall 22361 CR 104, was present in remonstrance. He questioned how they will access the property. He explained that there is no light at the corner and the road is a hill going south of the toll road. He stated that they are not supposed to come down CR 104 He explained that when they get off of the toll road they will come down 104.

Todd Cornell, 3216 Cassopolis St., Elkhart, was present as the petitioner. He stated that the traffic study has been done. He stated that city sewer and water has been approved for the subject parcel but will not go past the subject property. He explained dense amount of trees will be placed along the west property line. When Mr. Miller questioned if there will be a mound in place or just trees, Mr. Cornell responded just trees. Mr. Kolbus mentioned that one of the concerns was the timeline of the project. He explained that his timeline is as soon as possible due to running out of space. He added that he is adding 25 additional employees and the current infrastructure on Cassopolis Street will remain. When Mr. Campanello questioned parking, Mr. Cornell answered that it is asphalt and will be used for display.

A motion was made and seconded (*Warner/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** Tony Campanello, **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 GPUD E-3 to DPUD E-3 and for Primary approval of a 1-lot minor subdivision to be known as TIARA RV DPUD be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

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

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

Jason Auvil reported that on February 17, 2020, the Board of County Commissioners approved a DPUD known as Horizon Transport DPUD a Detailed Planned Unit Development M-1. He added that on February 20, 2020, the Middlebury Town Council approved a DPUD known as South Pointe Section Two DPUD.

11. Staff Item Terra Subdivision Sec. 2 – Jason Auvil reported a request from Terra Subdivision Sec. 2 for a one year extension of the primary plat. Mr. Auvil explained that a two year extension was approved in April 2018.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Jeff Burbrink to approve the one year extension. The motion was carried with a unanimous vote.

12. Chris Godlewski mentioned that we have received several surveys back from the initial letter that was sent for the Northwest Gateway. He added that Staff is wanting to update the Comprehensive Plan.

13. A motion was made and seconded (*Warner/Burbrink*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:27 a.m.

Respectfully submitted,

Kristi Miller, Recording Secretary

Steve Warner, Chairman