

PLAN MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 14TH DAY OF JANUARY 2021 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; Danny Dean, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

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 10th day of December 2020, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Edwards/Stump*) 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: Approved, **Moved by** Tom Stump, **Seconded by** Tony Campanello to approve the slate of officers as amended with Steve Warner, Chairman; Roger Miller, Vice Chairman. All other positions remaining the same.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

5. The application for a zone map change from M-2 to B-3, for Jonathan Wayne Yoder (Buyer) and Keith D. Thomas (Seller) represented by Freedom Builders, on property located on the northwest side of N. Main St. (SR 13), 2,500 ft. southwest of 14th Ave. (CR 14), common address of 335 N. Main Street in Middlebury Township, zoned M-2, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0932-2020*.

Paul Hochstetler, Freedom Builders, 54824 CR 33, Middlebury, was present representing the petitioner. He stated that this building used to be the old creamery. Their goal is to utilize this old building, fix it up, and turn it into a restaurant. He explained that one third of the building would be torn down and turned into parking. There is limited parking now so this would accommodate that. He stated that this would be an improvement to the property as it is now, and that the Town of Middlebury is in support of these improvements as well.

There were no remonstrators present.

A motion was made and seconded (*Miller/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** Tom Stump, **Seconded by** Roger Miller that the Advisory Plan Commission recommend to the Town Board of Middlebury that this request for a zone map change from M-2 to B-3 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

6. The application for a zone map change from A-1 to M-1, for SGL Holdings, LLC, on property located on the south side of CR 4, 1,220 ft. east of CR 39, 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 #RZ-0936-2020*.

Matt Arnold, P.O. Box 339, Bristol, was present as the petitioner. He stated he plans to rent it to someone for temporary storage for cargo trailers until they are able to move forward with their expansion. In the future there will be a necessity to store finished goods and as well as manufacturing space.

There were no remonstrators present.

Phil Barker had some concerns and questions he wanted to address. The first concern is that this rezoning has never gone through technical committee. He stated that the proposed land has areas that are mapped as wooded wetlands that have been cleared without the use of permits. He also has concern that there is 0-1 foot high water table in the northwest and east corners of the property as well as along the west property lines. He also wanted to address the buffer's that were in place. He has pictures of the land that was stripped of trees and the tree trunks that were stacked along the property lines as buffer. [*Attached to file as Exhibit #1*]. He stated that these buffers do not meet any of the standards for rezoning and wondered why it didn't go through Tech Meeting or become a DPUD.

Mae Kratzer addressed this stating that all rezoning's are handled straight from Planning Staff and do not go to Tech Meeting. She also explained that rezoning's do not have a site plan, and they are held to the Zoning Ordinance standards. Therefore if approved they would have to follow the buffering that is supplied in the Zoning Ordinance.

Matt Arnold was asked to address if there were any permits pulled to clear any of the trees in the wetland area. He stated he has no documentation that this was wetland area. Phil Barker replied that it is one the GIS as designated wetland. Matt Arnold stated that he started to harvest the trees before realizing that they needed a permit so they are working on coming into compliance with that.

Lori Snyder suggested that maybe they need to finish with compliances before completing a rezoning.

Steve Warner suggested that the number one place to start is with the wetland determination from Soil and Water.

Tom Stump asked the staff if the buffering containing logs and stumps is sufficient. Jason Auvil replied stating that a buffer for vacant property is not required. The buffer would need to come later as a result of the rezoning depending on what it is they will be doing with the property. This would not be an approved buffer once and if the rezoning would be approved.

Tony Campanello asked the staff if a DPUD would be better so that there could be a detailed report and limitations to what could be done on this property. Jason Auvil answered this question by stating they cannot prohibit anyone from submitting a straight rezoning request. This request is not uncommon, especially for this area. Recommendation was given by the staff based on the merits that the staff was provided. He explained that typically staff recommends based on the merits of the land use, not on the merits of the land itself. Therefore, the piece of land may have all kinds of issues, which does not, however, affect the merits of the zoning. They are separate, yet connected. He explained that when they go to build or pull a permit, then is when it would go through Technical Committee of our commercial property review. Then is when the merit of the land would fit into the scheme of things.

Andrew Helfrich, Barnes & Thornburg, 52700 Independence Court #150, Elkhart, was present representing the petitioner. He wanted to add to what Jason said, stating that one of the important parts of restating the Zoning Ordinance was to try and avoid the DPUD issues. By applying for a straight rezoning it actually forces his client into complying fully with that zoning as the improvements go on.

A motion was made and seconded (*Stump/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: Denied, **Moved by** Steve Warner, **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-1 be denied in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

7. The application for a zone map change from A-1/GPUD M-2 to M-2, for Karen S. Smaka & Jeffrey K. Smaka (Owner/Buyer) and Almac Realty, Inc. (Seller) represented by Pinnacle Properties, on property located on the west side of CR 23, 2,370 ft. south of Earthway Dr., in Washington Township, zoned A-1/GPUD M-2, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0937-2020*.

Steven Ryno, 13252 CR 4, Middlebury, was present representing the petitioner. He stated they have prospective buyers that would use more of an M-2 application with truck traffic and outside storage. Therefore they are wanting a straight rezoning so they are able to get more potential buyers and developers.

There were no remonstrators present.

A motion was made and seconded (*Miller/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** Steve Warner, **Seconded by** Steve Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map

change from A-1/GPUD M-2 to M-2 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

8. The application for a zone map change from R-2/R-4 to A-1, for Perry L. Whetstone & Sharon A. Whetstone, on property located on the west side of E. County Line Rd., 580 ft. south of the Indiana toll road, common address of 51465 E County Line Road in Middlebury Township, zoned R-2/R-4, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0945-2020*.

Perry Whetstone, 51465 E. County Line Road, Middlebury, was present as the petitioner. He stated he wanted to have some horses and chickens and this is why he would like to a Rezoning.

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** Steve Edwards, **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 R-2/R-4 to A-1 be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

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

Jason Auvil reported that on December 9, 2020, Millersburg Town Council meeting, a petition for a vacation was approved. At the December 17, 2020, Bristol Town Council Meeting they approved a zone map change R-1 to DPUD M-1 to be known as Solomon Fowler Mansion DPUD. At the December 21, 2020, County Commissioners Meeting, they approved a vacation for a north/south, east/west right-of-way, a vacation for another north/south, east/west right-of-way, a zone map change of A-1/R-1 to DPUD A-1 known as Culbertson DPUD, another zone map change from A-1 to DPUD A-1 known as McAfoos CR 19 A-1 DPUD, and also a zone map change from A-1 to DPUD A-1 known as Wabash RR Crossing Minor Subdivision Phase 2.

10. ***Hearing Officer***

Roger Miller proposed that Ann Prough take over as the new hearing officer for 2021, while he fills in as the alternate.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Tony Campanello that Ann Prough be appointed as Hearing Officer and Roger Miller as alternate.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9).

Yes: Jeff Burbrink, Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tony

Campanello, Tom Stump, Frank Lucchese.

11. Chris Godlewski had a few procedural items. He wanted to clarify that the President should always open the meeting. Once the petition's start, they will then turn it over to whoever is going to run that petition. He also explained that the virtual meeting statement needs to be read at the beginning of the meeting. The procedure sheets will also be changed to show roll call votes to be done whenever a vote is needed. He also wanted to introduce Danny Dean in his new role as Planner.

Matt Dietz from IT department was here to talk about potential improvements with the virtual part with the meeting. He stated that the addition of video is in the works so that you can see who is speaking as well as seeing exhibits.

12. 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 9:56 a.m.

Respectfully submitted,

Ilona Roberts, Recording Secretary

Roger Miller, Chairman