

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 12TH DAY OF MAY 2022 AT 9:30 A.M. IN THE
MEETING ROOM OF THE ADMINISTRATION BUILDING
117 N. 2ND ST., 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; Danny Dean, Planner; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Phil Barker, Steve Edwards, Lori Snyder, Tom Stump, Jeff Burbrink, Roger Miller, Frank Lucchese.

Absent: Steve Warner, Brian Dickerson

2. A motion was made and seconded (*Edwards/Barker*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 14th day of April 2022, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Edwards/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.

****It should be noted that Frank Lucchese arrived at this time****

4. The application for a zone map change from R-1/B-1 to B-3, for Laura Patricia Palos Gonzalez on property located on the west side of Tower Rd., 410 ft. north of Old Us 33, east of West County Line Rd., in Baugo Township, zoned B-1, R-1, was presented at this time.

Jason Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #RZ-0188-2022*.

Anna Ochoa, 408 Kling St., Goshen, was present for this request. She stated the plan for this property is construct a banquet hall for a location to have weddings on part of the property and a building garage on another piece of the property. She continued to state there are other plans to build houses. She went on to say there are cars currently on the property and complaints have been filed. The purpose for this zone change request would be to allow the cars to stay on the property as well. Mrs. Ochoa also stated that they have been in contact with the Army Corps. in regards to the wetlands, and they have been given permission to build. Jason Auvil stated homes would not be allowed in a B-3 zone. Mrs. Ochoa stated they would not be residential homes, but bridal suites. Phil Barker stated this project should not be a straight rezoning. He stated it should be presented as a DPUD, which would rezone, it and outline what the exact plan is for the property. He went on to say that would allow the neighbors and the Board to know what the plans are for this property.

Mr. Auvil submitted several emails that are opposed to this request received by staff [*Attached to files as Staff Exhibit #1*] The first was from Melonie Sizemore, no address given, she states she is concerned that any disturbances could have an effect on increase in pollution, noise, air issues, eye sores, property values and environmental concerns. The next email was from David and Sarah

Williams, 57039 Meadow Glen Dr., Elkhart, which stated the same concerns as previously stated. They went on to mention the abandoned cars already on the property and could see this as a further extension of this problem. The next email was from Jake McCalister, no address present, who stated property values are of concern as well as the current state of the property. The next email was from Blaine Tropster, no address present, he stated the same concerns that were listed in the previous emails. He also mentioned the subdivisions to the north and to the east, and this would have an impact on the current residential area. The next email was from Don and Michelle Zeller, 30690 Gregory Dr., Elkhart, which stated the same comments previously stated. The next email is from Natisha Lowe, 30730 Gregory Dr. and stated the same concerns previously stated. The next email was from Tara Fan, no address present, she stated a straight rezoning would allow for all the intense heavy B-3 uses, in a residential area. The next email was from Kevin Lowe, 30730 Gregory Dr. and stated the same concerns previously stated. The last email is from Kurt and Susan Pullum, no address present, they have the same concerns as previously stated.

Julie Abner, 57021 Meadow Glen Dr., Elkhart, came on in remonstrance, and she indicated where her property is located on the aerial. She stated similar concerns that were previously stated. She went on to say there are already junk cars on the lot.

Charles Scott, 57003 Meadow Glen Dr., Elkhart, came on against this request and he stated his concerns is that code enforcement has been to this property several times. He also went on to say their proposition for a banquet hall and bridal suites is a smoke screen to continue to dump items at this property. He continued to say that there have been loads of trash dumped at this site.

Don Zeller, 30690 Gregory Dr., Elkhart, was present against this request, and he stated him and his wife have lived there for 16 years. He went on to say why they bought this property. He stated the same concerns that the previous neighbors had discussed.

Laura Patricia Palos Gonzalez, 4135 Tyler Lane, Goshen, was present as the owner and Anna Ochoa, 408 Kling St., Goshen, was present to translate for Mrs. Gonzalez. Mrs. Ochoa stated they have no intention of devaluing the property nor becoming a nuisance to the community. She went on to say as far as the cars being an issue that is why they want to rezone the property. She also stated there has never been trash dumped on the property. She continued to say Mrs. Gonzalez is a successful business owner that would like to put a Mexican restaurant on the property for jobs and a great place to eat. She noted she stated banquet hall earlier due to being nervous. She went on to say the purpose of rezoning is to make money off the land and to develop it.

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

Tom Stump stated the south part of the property is zoned B-1, and they are able to have some business activity on that part of the property without a rezoning. Mr. Stump asked if the code enforcement was aware of the property line and the different zones. Mr. Auvil stated they are. Mr. Stump agreed with Mr. Barker with rezoning the property as a DPUD, and he noted they can do what they want to do with the already B-1 zoned area. Mr. Auvil stated this petition came with very limited information, and the voicemail box of the petitioner is full. Mr. Edwards stated the DPUD would be the preferred route to go, so residents have an idea what they want to do. He went on to say it could be brought back to the Board as a DPUD and be seen in a different light.

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

Motion: Action: Denied, **Moved by** Roger Miller, **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 R-1/B-1 to B-3 be denied in accordance with the Staff Analysis.

Vote: Motion passed (**summary:** Yes = 7)

Yes: Phil Barker, Steve Edwards, Lori Snyder, Tom Stump, Jeff Burbrink, Roger Miller, Frank Lucchese.

5. The application for a zone map change from A-1 to M-1, for We Impact Properties, LLC represented by Jones Petrie Rafinski, on property located on the south side of CR 6, 3,275 ft. east of CR 10, common address of 29224 CR 6 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-0210-2022*.

Matt Shuster, 300 Nibco Parkway, Elkhart, was present representing the petitioner. He explained that they are seeking to rezone the property from A-1 to M-1. Mr. Shuster continued to say there is a site plan available to show the future plans for this site, and he submitted the mentioned site plan [*Attached to file as Petitioner Exhibit #1*]. He continued to state the plans for this facility. Mr. Miller asked if the property to the east is in the City of Elkhart, and Mr. Shuster responded yes. Lori Snyder stated that property is zoned M-1. Mr. Stump asked how it would impact the instrument landing approach for the airport. Mr. Schuster indicated that it wouldn't be effected. Mr. Stump asked what the height building restrictions were. Mr. Schuster explained the building height restrictions. Mrs. Snyder questioned the entry point of this site. Mr. Shuster explained the entrance will be on the east side of the property, that entrance is in the city limits.

William Baker, 29281 CR 6, Elkhart, was present in remonstrance, and he stated there was a time when deals were made by handshakes and someone gave their word and stood by it. He continued to say when this property was originally sold it was agreed it would remain A-1. He went on to say he didn't see a logical, legal reason to change the zoning. He claimed there is a contract stating this property would stay an A-1 zone Mr. Burbrink asked Mr. Baker what contract he was talking about. Mr. Baker explained when the land was originally sold, it was said it would stay A-1, a residence by the Planning Commission. Mr. Godlewski stated the zoning commission doesn't interact with real-estate transactions.

James Hall, 52879 CR 101, Elkhart, came on against this request, and he stated his main concern was putting in another intersection with heavy traffic in the area. He continued to say that he had never seen any plans for access points until today. He went on to say Forest River has never put up trees like they were supposed to hide the neighborhood from their mess. He explained how bad the traffic is in the early morning and when dumpsters are dropped it shakes his entire house.

Anatolij Michailovsky, 29296 CR 6, Elkhart, was present in opposition, and he stated when his parents purchased the property they were told that it would remain residential. He continued to say the previous owner of the neighboring property said it would remain A-1 zoning, and he would like it to remain an A-1 zone.

Mr. Shuster came back on and stated as far as the landscaping, it is shown on the site plan. He stated no new access is being asked for. Mrs. Snyder asked what was going on the property behind this parcel. Mr. Shuster stated it is a warehouse for Keystone and it is in the city's jurisdiction. Mrs.

Snyder asked what their access point was for that warehouse. Mr. Shuster responded access is through John Weaver.

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

Mr. Stump asked Mr. Shuster if they were committing that this is the building that will be built on this property. Mr. Shuster stated that is what is being purposed to build. Mr. Stump asked if it should be a commitment. Mr. Shuster did state that there could be another building built south of this building's location at some point. Mr. Lucchese asked if this was a spec building. Mr. Shuster concurred with that statement. Mrs. Snyder stated when all the other lots were incorporated, and they discussed boundaries for manufacturing uses.

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

Motion: Action: Approve, **Moved by** Steve Edwards, **Seconded by** Frank Lucchese 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 with the following commitment imposed: 1. The building that is shown on the site plan submitted (dated 5/12/2022) is what shall actually be built.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5, No =2).

Yes: Phil Barker, Steve Edwards, Tom Stump, Jeff Burbrink, Frank Lucchese.

No: Lori Snyder, Roger Miller.

6. The application for an amendment to an existing DPUD E-3 known as ELKHART EAST AREA B DPUD PH 3 to allow for a manufacturing building on lot 2A, for Elkhart East Holdings, LLC represented by Abonmarche Consultants, Inc., on property located on the south side of Innovation Dr., 580 ft. east of CR 15, common address of 22412 Innovation Dr. in Osolo Township, zoned DPUD, E-3, was presented at this time.

Jason Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #DPUD-0223-2022*.

Jeff Schaffer, 303 River Race Dr., Goshen, Abonmarche Consultants, Inc. was present representing the petitioner. He agreed with the staff report and how it was presented.

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 Edwards, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an amendment to an existing DPUD E-3 known as ELKHART EAST AREA B DPUD PH 3 to allow

for a manufacturing building on lot 2A be approved in accordance with the Staff Analysis.

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

Yes: Phil Barker, Steve Edwards, Lori Snyder, Tom Stump, Jeff Burbrink, Roger Miller, Frank Lucchese.

7. The application for a zone map change from A-1 to DPUD M-1 and for primary approval of a 1-lot minor subdivision to be known as YODER CONCRETE, LLC DPUD AMENDMENT, for Larry Yoder & Linda Yoder represented by Abonmarche Consultants, Inc., on property located on the west side of SR 13, 2,700 ft. north of CR 38, common address of 64455 SR 13 in Clinton Township, zoned A-1, DPUD M-1, was presented at this time.

Jason Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #DPUD-0233-2022*.

Crystal Welsh, 303 River Race Dr., Goshen, Abonmarche Consultants, Inc. was present representing the petitioner, and stated an easement will be in place prior to the secondary approval.

There were no remonstrators present.

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

Phil Barker stated he had a meeting with Mrs. Welsh. He stated the concern for this site was that the detention basin is just a straight drain with no holding capacity at all. He continued to say in the original plan they were taking run-off to another retention basin, then it was going to discharge in the road side ditch on SR 13, which wouldn't have worked. He stated what he encouraged them to do is to get an easement along the property to the west and north to discharge in the McAllister Ditch and, the Surveyor's office doesn't have a problem with that. Mr. Barker noted he doesn't have a problem with this request as long as that happens, and they have been reassured that all of it will be in place at time of secondary approval.

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

Motion: Action: Approve, **Moved by** Tom Stump, **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 A-1 to DPUD M-1 and for primary approval of a 1-lot minor subdivision to be known as YODER CONCRETE, LLC DPUD AMENDMENT be approved in accordance with the Staff Analysis with the following condition imposed: 1. The drainage plan as represented at the Plan Commission Hearing must be reflected in the secondary plat.

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

Yes: Phil Barker, Steve Edwards, Lori Snyder, Tom Stump, Jeff Burbrink, Roger Miller, Frank Lucchese.

8. The application for a zone map change from A-1 to DPUD M-1 and for primary approval of a 2-lot minor subdivision to be known as MICHIANA CAPITAL INVESTMENTS DPUD M-1, for Michiana Capital Investment Group, LLC represented by Abonmarche Consultants, Inc., on property located on the northeast corner of SR 13 & CR 30, common address of 61790 SR 13 in Clinton 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-0234-2022*.

Mr. Auvil discussed as different populations move into other populated areas there are starting to be more and more conflicts, one of those conflicts is with generators and generator noise. He went on to say that the BZA have had cases where it has become a major issue/problem because, some of these generators can be very loud. He continued to say the planning staff recommended adding a condition require commercial electric power and or solar and prohibiting the use of generators. However since then, communication with the developer has brought forth information that there are ways to reduce the noise from generator use. Mr. Auvil stated on some sites phase III electric would be needed, and may require generators if that is not available.

Mr. Miller asked if staff had an issue with this large of production in an A-1 zone. Mr. Auvil responded at the 50,000 ft. level, no, this site is along a state route. He went onto say that having large buildings in an agriculture area is not uncommon. Mr. Stump asked to have clarification of the site.

Crystal Welsh, 303 River Race Run Dr. Abonmarche Consultants, Inc. was present representing the petitioner, and she stated staff let them know their concerns about noise. She went on to say this allowed them to provide information in regards to this potential problem. She went on to say the easement for the new tile will be in place before they submit secondary. She added the owners had a noise study done on a site, where there is an operating business. She stated the current generators are in the category of a washing machine, air conditioner, dishwasher, and/or vacuum noise, at the property line. Mrs. Snyder asked if there are any neighbors concerned. Mrs. Welsh said she is not aware of any neighbors concerns

Paul Hochstetler, 54824 CR 33, Middlebury, Freedom Builders, was present to speak about noise levels of generators and how noise pollution can be reduced in detail. He submitted a packet containing findings from their sound study and went on to go over those findings [*Attached to file as Petitioner Exhibit #1*]. He went on to suggest to set the ordinance noise restriction to a certain decibel at a particular time of day. Mr. Burbrink asked the hours of operation. Mr. Hochstetler stated the hours of operation will be from 5 AM to 3 PM. Mr. Miller asked what will be manufactured. Mr. Hochstetler stated they would be manufacturing wood trusses and an aggregate business as well.

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.

Mrs. Welsh stated they talked with Katie from the Highway Department in regards to the traffic flow pattern, and there will only be around 5 trucks coming and going daily basis, and only about 20 employees. She went on to say all traffic will be routed SR 13. She also stated Katie from the Highway Department did not have concern for that county road.

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

Motion: Action: Approve, **Moved by** Lori Snyder, **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 to DPUD M-1 and for primary approval of a 2-lot minor subdivision to be known as MICHIANA CAPITAL INVESTMENTS DPUD M-1 be approved in accordance with the Staff Analysis, with the following condition imposed: 1. The petitioner and staff will work together to

establish an acceptable level of sound at the property line.

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

Yes: Phil Barker, Steve Edwards, Lori Snyder, Jeff Burbrink, Frank Luchesse.

No: Roger Miller, Tom Stump.

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

Jason Auvil reported on the April 4, 2021 Middlebury Town Council approval, the April 13, 2021 Millersburg Town Council approval, and the April 18, 2022 Elkhart County Commissioners petition approvals.

10. A motion was made and seconded (*Barker/Edwards*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 11:09 a.m.

Respectfully submitted,

Amber Weiss, Recording Secretary

Jeff Burbrink, Chairman