

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 8TH DAY OF SEPTEMBER 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; and Don Shuller, Attorney for the Board.

Roll Call.

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

Absent: Brian Dickerson, Frank Luchesse.

2. A motion was made and seconded (*Warner/Snyder*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 11th day of August 2022, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Edwards/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 park as known and designated on the recorded plat of Heaton Park, a subdivision in Osolo Township, Elkhart County, Indiana, for Elkhart County represented by Jackson Beck of Yoder Ainlay Ulmer & Buckingham, on property located on the south side of Heaton Vista, 1, 000 ft. east of CR 113, common address of 23100 Heaton Vista in Osolo Township, zoned R-2, was presented at this time.

Mae Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #VRW-0605-2022*.

Jackson Beck, Yoder Ainlay Ulmer & Buckingham, Attorney for Elkhart County, 130 N. Main St., Goshen, was present representing the petitioner. Mr. Beck stated they are filing this petition as it meets the standards and the area is ready for private use. He went on to say the county is not currently maintaining the area, the local property owners are maintaining the property. Mr. Stump asked what the plans are after this is vacated. Mr. Beck responded that upon vacation the property would go to the adjoining property owner and it would become private property.

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.

Mr. Stump asked why the county isn't selling the property. Mr. Beck responded this is currently dedicated for public use, which makes it difficult to put the property up for sale. Mr. Stump clarified this property will go to the adjoining property owner. It was clarified this property is just shy of half an acre. Mr. Stump stressed he doesn't understand why the county wouldn't sell the land. Mr.

Beck responded this is the preferred way to handle the land and this is more of a liability for the county. Mr. Godlewski explained there will be property taxes generated from the property. Mr. Stump stressed this property is probably worth 20-30 thousand dollars as it is a buildable piece of land. Mrs. Snyder stated that in order to make this eligible to be sold they would have to go through other steps that are extensive. Mr. Stump stated that if this is going to the adjoining property owner, then this is no longer for public use. Mr. Barker stated this is no different than closing a road way that isn't being used. He continued to say that an argument could be made that this wasn't a public area but a common area for the entire plat. Further, he stated this was platted as part of Heaton Park, and if it was sold, a percentage would be allowed to everyone in the subdivision. He explained on the plat it just says park, so that tells him this is a common area. Mr. Burbrink asked if the property will be rolled back to the original land owners. Mr. Beck responded no, it is going to the adjoining owners. Mr. Stump asked if this has to go to the Commissioners for approval. Staff responded yes. Mr. Stump stressed he hopes the Commissioners take into account the concerns and statements he has made today. Mr. Godlewski explained that when an alley is vacated, half goes to each owner on the either side of the alley, and this property is only on one side of the road. Mr. Miller stated that a vacation of an alley, isn't buildable land, whereas this is buildable land. Attorney Shuller explained that since this has been dedicated as public use, the use would have to change first, and assuming that gets rescinded from public use then the property could be sold. He continued to say there is policy consideration into deciding to not go through that process, because legally in order to get to that point, the county would have to change that dedication. Mr. Beck stated that the land was originally dedicated to the county for public use area, and now they are vacating the public use so it reverts back to the land owners. Mr. Edwards asked if the land owner approached the county or did the county approach the land owner. Mr. Beck responded he wasn't a part of that process therefore, he can't say for sure, but he does know the land owner has consented to this petition. Mr. Miller stated he feels as though the county is just giving away the land. Attorney Shuller explained the legal mechanism is this is a vacation of the public use, and not necessarily a specific transfer of property for private property owner benefits. He stressed the county is vacating their reliability and responsibility of the property.

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

Motion: Action: Approve, Moved by Lori Snyder, Seconded by Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the vacation of a park as known and designated on the recorded plat of Heaton Park, a subdivision in Osolo Township, Elkhart County, Indiana be approved in accordance with the Staff Analysis.

Vote: Motion passed (summary: Yes = 4, No = 3, Abstain = 0).

Yes: Phil Barker, Steve Warner, Lori Snyder, Jeff Burbrink.

No: Steve Edwards, Tom Stump, Roger Miller.

5. The application for a zone map change from PUD B-2 to B-1, for Heath H. & Nancy E. Fervida, Husband and Wife represented by Heath Fervida, on property located on the east side of CR 113, 645 ft. south of US 33, common address of 59466 CR 113 in Concord Township, zoned PUD B-2, was presented at this time.

Danny Dean presented the Staff Report/Staff Analysis, which is attached for review as *Case #RZ-0602-2022*.

Heath Fervida, 59687 Grandview Ct., Elkhart, was present for this petition. He stated the main

reason he wants to rezone this property is to put in counseling offices and private practice offices and needs to be able to expand his parking lot to accommodate clients. He explained they get clients from 8 am to 6 pm, during the week. He continued to say he wants to plant some arborvitaes for buffering and to make the area look really nice.

There were no remonstrators present.

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

Mr. Stump asked how this will affect the R-1 zoning areas that are surrounding this property. Mr. Dean responded that any new improvements are going to require the buffering that is in the Zoning Ordinance. It was clarified that the new parking lot expansion will not take out the wooded area on the lot. Mr. Burbrink asked if the wooded area, which is currently on the property, will be allowed as part of the buffering. Mr. Dean responded he would have to double check, though he believes that is correct. Mr. Fervida stated he has talked to his neighbor across the road and to the south, and they are in agreement with the type of buffering he has proposed with the tree line and the planting of arborvitaes.

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 PUD B-2 to B-1 be approved in accordance with the Staff Analysis.

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

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

6. The application for a zone map change from A-1 to DPUD M-1 and DPUD A-1 and for primary approval of a 2-lot minor subdivision to be known as RVW STORAGE DPUD, for Nathan A. & Monica J. Kauffman, Husband and Wife represented by Land & Boundary LLC, on property located on the east side of US 33, 1,530 ft. south of CR 40, common address of 66300 US 33 in Elkhart 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-0619-2022*.

Mr. Edwards asked if this will be outside storage with no buildings. Mr. Auvil responded that is correct.

Ryan White, 418 S. Main St., Elkhart, was present for this petition. He submitted a plat plan that isn't the subject site [*Attached to file as Petitioner Exhibit #1*], noting it is in the process of being annexed into the city. He stated this US 33 corridor will become commercial and INDOT is already working on traffic studies for this development and for the city. Mr. Stump asked if there was a bed and breakfast near the subject property. Mr. White responded he doesn't believe there to be one. Mr. Burbrink asked if this falls in the city's responsibility. Mr. White responded this land is in the county. He continued to say he only showed the other property to show there are plans for more commercial projects in area and it won't be all agricultural in the future. Mr. Miller asked if there were plans to annex the subject property into the city. Mr. White responded no, there are no plans to annex into the city.

There were no remonstrators present.

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 a zone map change from A-1 to DPUD M-1 and DPUD A-1 and for primary approval of a 2-lot minor subdivision to be known as RVW STORAGE DPUD be approved in accordance with the Staff Analysis.

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

Yes: Phil Barker, Steve Edwards, Steve Warner, Lori Snyder, Jeff Burbrink, Roger Miller.

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

Jason Auvil reported on the August 15, 2022 Elkhart County Commissioners petition approvals. He also reported that on August 1, 2022 the Town Council of Middlebury meeting denied the Cherry Creek, LLC DPUD.

Christ Godlewski reported that the honorable Tom Stump would no longer be a part of the Plat and Plan Commission Board. He will be missed and everyone was thankful for his years of service and for the knowledge he is leaving behind.

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

Respectfully submitted,

Amber Weiss, Recording Secretary

Steve Warner, Chairman