

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 13TH DAY OF AUGUST 2009 AT 9:00 A.M.
MEETING ROOM – 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 Chairperson, Tom Holt, with the following members present: Jeff Burbrink, Blake Doriot, Dennis Sharkey, Tom Lantz, Meg Wolgamood, Steve Warner, and Roger Miller. Staff members present were: Robert Watkins, Plan Director; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Wolgamood/Doriot*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 9th day of July 2009 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Doriot/Burbrink*) that the legal advertisements, having been published on the 1st day of August 2009 in the Goshen News and on the 3rd day of August, 2009 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Warner/Burbrink*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. With a unanimous vote, the motion was carried.

5. The application for the vacation of a 150 ft. portion of an east/west alley right-of-way for **Lila Jean** located between Holben Woods Lane and Wolf Avenue, beginning 284 ft. West of 49th St., a distance of 150 ft. in Baugo Township, zoned R-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20091973*.

Lila Jean, 30303 Wolf Ave., Elkhart, was present on behalf of this request. According to the petitioner, a portion of the alley to the east of this has already been vacated and there are only woods located behind her property.

Also present was James Mason, 30342 W. Wolf Ave., Elkhart, who lives across the street from Ms. Jean. This is a county area and he said the alleys from 49th to 50th St. have never been used. The area is all woods and he feels all of the alleys should be closed.

A motion was made and seconded (*Sharkey/Doriot*) 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, a motion was made (*Sharkey*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis.

Mr. Doriot commented that they probably should have included the next petition when acting on this request, but since this doesn't change access problems for anyone but the petitioner, he seconded the motion. With a unanimous roll call vote, the motion was carried.

6. The application for the vacation of an east/west alley right-of-way for **James Mason** located between Burbank St. (50th St.) and 49th St., 128 ft. South of Wolf Avenue in Baugo Township,

zoned R-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20091778*. He explained that this request was tabled in July to allow the petitioner to amend the application to include the entire alleyway between 49th and 50th Streets.

Mr. Kolbus asked if they obtained any additional signatures of neighbors who signed on to this application. Mr. Nemeth explained that the petitioner incurred the cost for the professional survey and he doesn't believe any additional signatures were obtained.

Mr. Kolbus recalled that remonstrators were present in July. Mr. Doriot explained that the one remonstrator had some problems with right-of-way because the road was paved six to eight feet into his property and he built a fence off the pavement, which encroaches halfway into the alley; however, he said that is a problem that needs to be addressed by the Commissioners.

When asked if all of the neighbors were notified of this amended request, Mr. Nemeth said yes.

Present on behalf of this request was James Mason, 30342 W. Wolf Ave., Elkhart. He verified that all of the neighbors did receive certified letters of this request.

A motion was made and seconded (*Sharkey/Holt*) 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, a motion was made and seconded (*Holt/Miller*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

7. During staff/board discussion, Mr. Sharkey said if the other neighbors come in for a vacation for the rest of the alley (*see item #5*), he feels the other neighbors should be encouraged to come in to vacate the entire alley rather than one lot at a time and other board members were in agreement.

8. In an update on the zoning ordinance re-write, Mr. Watkins explained that the committee has had its second meeting with Ground Rules and that seems to be going forward fairly well. Some of the sections will require some legal interpretation and those have been forwarded to Mr. Kolbus. He doesn't know the time line for having Draft 2, but he feels it has been an interesting process and he is very encouraged.

Mr. Burbrink then encouraged those who are not on the committee to look at a copy of the draft because the layout is very different than what we now have. It will be a thicker document because the definitions are much more involved, but he said it's much easier to move around within the document and it looks like it will flow very nicely. He's very impressed with Ground Rule's work.

Mr. Watkins went on to say that the first challenge was to determine whether or not we needed the districts that were there, and whether or not any districts needed to be added. A couple of districts have been combined, and he said they will be renaming some others.

A draft of the proposed zoning ordinance was then distributed to the Board for review.

Mr. Watkins also reported that the final report for the Northwest Gateway Land Use Study has been completed and they are moving forward with the project. A copy of the report was also distributed to the Board for review.

The Board was then given a brief update on the leave status of the planning manager, Mark

Kanney.

The Board was also updated on the installation of the Blue Prince development software. According to Mr. Watkins, some issues are still being worked out, but once that is completed, they will be ready to go to the public module, which will allow requests for some permits to be done online. He also said the building inspectors will eventually be doing inspections on tablet computers, and they should be able to print an inspection report when on site. The next morning they can download all of the new information into the database so there should be more consistency. He explained that the tablets have the entire database in them and they will also have the ability to download the entire state building codes.

When asked if the other departments are on board, Mr. Watkins said the Highway Department and Health Department are also involved, but the Surveyor's office has not been at this point.

Mr. Watkins reported that the budgets have been submitted with the hearings to be held in September. Mr. Sharkey said everyone has taken the budgets seriously and what they have received from the departments has been good. He said it will be tough next year, but they feel it will be a lot tougher in 2011. He explained that their investment incomes are less than half and probably a third of what they've been in the past, and several of the departments' incomes are way down.

With the way the Planning and Code Enforcement budgets are set up, Mr. Watkins said we can tell what the unspent balances are as a percentage of the budget. To date, he said one budget has 72 percent of the flexible income remaining and the other is over 80 percent; however, he did say we are at the time of the year where we start needing to spend some of that.

A year ago, Mr. Watkins said MACOG offered federal highway money, and in an attempt to save money, he requested five energy efficient vehicles for the county. The bidding ends the 24th and they anticipate receiving those vehicles in the next 45 days. He also said he just finished another application for nine more this morning, and they are requesting \$288,000 from this grant that would otherwise be spent out of our budgets so they are saving money. However, Mr. Sharkey said they only save money if they are replacing cars, not if they are adding them to the fleet, and Mr. Watkins said they have to replace vehicles because he had to identify what vehicles were going away. He went on to describe the vehicles being replaced and the type of vehicles they are requesting.

9. The application for a text amendment to an existing Detailed Planned Unit Development known as **AMERICAN COUNTRYSIDE**, for Midwest Farmers Market, on property located on the North side of CR 26, 1,000 ft. East of SR 19, common address of 27751 CR 26 in Concord Township, zoned DPUD-E-3, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20092016*. He clarified that a sound ordinance was adopted by the commissioners to address sound levels should there be any complaints.

Present on behalf of this request was John Leszcynski, 550 Union St., Mishawaka. He said they have held a couple of events with permission from the staff and there have been no complaints. They are trying to limit the car sales to forty (40) days throughout the year, one to four-day events, which includes set-up and take-down. According to Mr. Leszcynski, they are attempting to bring more business into Elkhart County. They agree with the limitations recommended by the staff, and he then noted that Kent BeMiller and Leroy Troyer from the Midwest Farmers Market are also present to address any specific questions from the Board.

When Mr. Doriot asked if they are talking about auctions, Mr. Leszcynski said no. He explained that dealers bring cars in similar to Gates Chevrolet holding sales at Notre Dame. Mr. Doriot said he sees no problem with a specialty auction, but he feels any auctions should be limited to antique or collectables. Mr. Leszcynski said they understand that and they don't want vehicles that have to be towed in so they have been very selective.

The type of concerts they are proposing was then questioned by Mrs. Wolgamood. Mr. Leszcynski said there would be a variety, but they would have to conform to the Noise Ordinance. Their plan is to have the concerts outdoors in the area between the back of the building and the US 20 Bypass.

She also questioned if they would have restroom facilities and he said they would comply with Health Department requirements based on an estimated number of people attending. He also indicated they would bring in bleachers if that was necessary.

Mrs. Wolgamood then asked when the light at SR 19 and CR 26 will be installed and Mr. Leszcynski said he believes next week. He said the intersection is basically done and they are painting the stripes today.

Mrs. Wolgamood said she has no issues with car auctions, but she is concerned about the outdoor concerts due to the potential number of vehicles and traffic issues that may be created. Mr. Leszcynski explained that the intersection was designed with high demand involved for full development of the entire site. All they have now is the Farmer's Market so they are well within the traffic projections they had. There are double left-turn lanes and signals, and if necessary, he said they would hire county police officers to assist. According to Mr. Leszcynski, there will be a lot of security at the concerts because they don't want it to get out of hand.

For clarification, Mr. Sharkey said there would be no alcohol on the property and Mr. Leszcynski said that is correct.

Mr. Miller then asked if they have parking for approximately 300 vehicles, but Mr. Leszcynski said it is a lot more than that. He indicated they have 300 in the front and double or triple that amount in the back.

Leroy Troyer, 1442 Deerfield Court, South Bend, one of the board members of American Countryside and the Midwest Farmer's Market, clarified that the total parking capacity is 700 to 800 on the hard surface. If they have special events, he said they plan to have some additional parking on the fields to the west of the Farmer's Market. According to Mr. Troyer, there has been one large event and possibly another one pending in the near future so that's why this request is important. He said they want to create economic development and family attractions for the community.

Mr. Warner commented that it appears there are only two or three very close neighbors in the area. Mr. Leszcynski said there are two residences along CR 7 between their development and the jail, but then there are farms to the south. In addition to farmland, their neighbors are the landfill and the jail, and he said Baugo Creek is to the west so that's what makes this a choice site for these types of events.

If it is their intent to have concerts and events in this area, Mr. Holt asked why they wouldn't put the infrastructure in to handle sanitation and security. Mr. Leszcynski said they will find out what they need after they have their first. They have a lot of the infrastructure in place such as public sanitary sewers and the water system. He said they will use the restrooms internally, but if they have a need for more, they will be doing the outside.

Mr. Doriot pointed out that portable facilities are brought in during fair week so he feels

that's a normal process. Mr. Sharkey also commented that building a concert arena with all of the facilities hoping it's successful is not fiscally responsible and he agreed you have to see how the events go first.

When asked if they are considering portable stages to begin with, Mr. Leszcynski said yes.

There were no remonstrators present.

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

Mr. Burbrink noted that American Countryside is open four days a week so that basically gives them 10 weekends for these events throughout the summer.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Burbrink/Warner*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request to amend the existing DPUD by adding outdoor concerts and outdoor sales of vehicles to the list of permitted uses be approved in accordance with the Staff Analysis with the following conditions imposed:

1. That the outdoor concerts and outdoor sales of vehicles be permitted for a total of forty (40) days in any calendar year.
 - a. That the forty (40) days shall be any combination of the outdoor concerts and outdoor sales of vehicles.
2. That the Farmer's Market LLC shall maintain sound levels of the outdoor concerts as to not create a nuisance to the general public.
3. Should a verified complaint concerning sound levels be filed, no further outdoor concerts will be permitted. The Farmer's Market LLC may request that future outdoor concerts be permitted by addressing, to the satisfaction of the Elkhart County Plan Commission at a public meeting, their sound mitigation measures.
4. That the outdoor concerts be limited to a specified time of 10:00 a.m. to 10:00 p.m.

A roll call vote was taken and the motion was carried unanimously.

10. There were no audience items.
11. See page 2, items # 7 and #8 for staff/board items.
12. The meeting was adjourned at 9:46 a.m.

Respectfully submitted,

Kathleen L. Wilson, Recording Secretary

Tom Holt, Chairman