

MINUTES

ELKHART COUNTY PLAN COMMISSION MEETING

HELD ON THE 11TH DAY OF OCTOBER 2012 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, Jeff Burbrink, with the following members present: Tony Campanello, Doug Miller, Steve Warner, Steven Edwards, Roger Miller, Blake Doriot and Mike Yoder. The following member was absent: Dennis Sharkey. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Mark Kanney, Planner; Duane Burrow, Planner; Kathy Wilson, Office Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*R. Miller/D. Miller*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 13th day of September 2012 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Edwards/Doriot*) that the legal advertisements, having been published on the 29th day of September 2012 in the Goshen News and the 28th day of September 2012 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/D. Miller*) 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 Primary approval of a two lot major subdivision to be known as **REPLAT OF LOTS 3 & 4 OF 13 NORTH INDUSTRIAL PARK**, and for a zone map change from M-1 PUD to M-1, for William C. Fenech represented by Wightman Petrie, Inc., on property located on the West side of SR 13 (US 131), 100 ft. North of CR 2, common address of 11333 CR 2 in York Township was presented at this time.

It was determined that both agenda items could be heard at this time with separate votes taken after the public hearing.

Mark Kanney began by presenting the Staff Report/Staff Analysis for the rezoning request, which is attached for review as *Case #11333CR 2-120904-1*. Mr. Kanney requested to begin with the zone map change and then the request for Primary approval of the two lot major subdivision. He said the original PUD laid down a couple of conditions for the overall subdivision to meet and one was a no-access easement be placed along that road in addition to a dedication of additional right-of-way. He said those conditions were all accomplished in the plat, so they feel comfortable in recommending approval of the rezoning to take it out of the PUD. All of the conditions in the PUD are still in effect and they can be discussed on the replat.

The Staff Report/Staff Analysis for the two lot major subdivision (replat), which is attached for review as *Case #11333CR 2-120904-2*, was then presented by Mr. Kanney.

Mr. Yoder commented that according to the larger map displayed it looked like there was originally one entrance to the north for this property. He asked if it was initially planned for that one entrance to be the primary entrance to the south as well. Mr. Kanney agreed it was at one point, but part of it, and he did not think it was the primary entrance, was access for the lot in the back and there was a NIPSCO utility easement to the back. He said it was originally platted as Edgar Drive, but it had no access easements on it and Edgar Miller decided he had no interest in building it and left it. Mr. Kanney said the Plan Commission vacated the original Edgar Drive and it serves now as the frontage to this plan. He said the original access was supposed to come down on CR 2 and the improvements were made for the truck traffic coming in and out of Four Seasons. He noted to predate that they had problems with trucks using this as a depot area and stop on SR 13 to back in which was a mess. He said they could not have trucks backing down SR 13.

Doug Miller asked where the trucks were pulling in. Mr. Kanney pointed the location out on the map and said there was no curb cut, they just pulled off the road and backed up. He felt it was causing havoc on the SR 13 traffic. Mr. Kanney clarified that the Staff did not have a problem with putting a driveway for the office building. He thought if they took the office portion off of the manufacturing facility portion it would be better and the State would also prefer that. Mr. Doriot asked if the operations were interconnected and Mr. Kanney said they were, but he did not know the status now.

Kenneth Jones, Jr., Wightman Petrie, 4703 Chester Drive, Elkhart, agreed with the Planning Staff and had no additional comment with respect to the rezoning. He then went on to discuss the replat. He thought, the petitioner and INDOT would echo the Staff's concerns. He stated that the replat is combining two separate platted lots into one, because the two lots make no sense anymore. The southern lot is almost covered in a septic system that serves the corporate office and one or two of the plant buildings to the west. He said this lot is not buildable. The reason for the two lots being separate is because Four Seasons had common ownership and it remains common ownership. The new buyer purchased all of it at the same time. With respect to the driveway, Mr. Jones said the primary purpose of the replat is to poke a hole in the non-access easement, so that a driveway could be constructed directly to SR 13 to serve the corporate office. The office staff would no longer have to navigate their way through the industrial area to get to work and it would be much easier for guests and visitors to find their way to the corporate office.

Mr. Jones said there were two steps to this process. First, it would not do any good to get an INDOT permit when there is still a non-access easement there. Therefore, they need to submit a replat and try to modify a non-access easement.

The second stage is a detailed engineering design of the drive approach for any kind of modification to SR 13 that INDOT feels is appropriate and to obtain an INDOT state highway permit. Mr. Jones said they are under contract with the owner to do that and have had initial coordination with INDOT, but have not finished the final design of it pending the outcome of this request.

Mr. Jones stated that the driveway would not be designed for semi-trucks. He said there are two options that INDOT has preliminarily laid out for them with one being all or part of it impassible for any vehicle, semi-truck or otherwise, and the other is some type of actuated gate that the corporate staff would be able to utilize on some rare occasion, but more than likely it would be closed all of the time. He said truck drivers and industrial traffic would not be able to utilize it. Mr. Jones said there are detailed design elements to that and suggested they compare it to all of the gates

at the Elkhart Airport where a number would be punched in and the gate opens. This would help prevent the type of traffic they do not want. He stated that they will not have that final answer with INDOT until they are actually turning in design drawings to them. Either way, the owner's primary goal is shared with Planning Staff, because they do not want heavy traffic associated with the various industrial activities using the driveway. He commented that in some ways they agree with the Staff Report, but they do not agree with recommending denial, because this is their last step. They still have to work everything out with the Fort Wayne District of INDOT, and the owner will do that.

Mr. Jones said the only advantage this driveway would serve, if this driveway was here, is the management staff could go to the back without going back onto the highway to get there. He said there is some interest in keeping it there and installing a gate. He mentioned that the preliminary plat that was turned in does show a proposed actuated traffic gate, and if the preliminary plat gets approved as it stands, they would have to revise the plat to build the gate. Mr. Jones indicated that they thought they could have the one-way access for management and that INDOT would agree to that as long as they are provided with sufficient detail and it gets installed at the same time the driveway is built.

Mr. Yoder asked if they could design the entrance off of SR 13 so the semis would not even attempt to turn in that area. He then asked about different standards or turning radiances and Mr. Jones thought they could use 50 ft. radius and big wide driveway widths. He said it would not be the type of driveway that would necessitate a left turn lane. They have already asked Wightman Petrie in the preliminary comments that the left lane would have to be adjusted and that is reflected on the preliminary plat, to enable the left turn in from the northbound traffic. He said right now they have the drive at 28 ft. wide, which is designed for two vehicles, and they may ask them to put some type of median in the middle of the driveway which would discourage a semi-truck to turn in there.

Mr. Jones suggested they could also use signage. He agreed the truck traffic is a concern and needs to be prevented in that driveway. Mr. Jones stated that there is already a curb cut on the east side of SR 13 and INDOT said they want them to line up with that, so they know where it will go.

There were no re remonstrators present.

A motion was made and seconded (*Doriot/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, a motion was made and seconded (*Doriot/Campanello*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from M-2 PUD to M-1 be approved in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

With regard to the replat, Mr. Doriot said he does not think tractor trailers can navigate the drive. State Highway will make certain there is a safe entrance designed. He does not see problem with it and Mr. Yoder agreed.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Yoder*) that this request for Primary approval of a two lot major subdivision be approved by the Advisory Plan Commission as presented by the petitioner (with the proposed traffic gate restriction as shown on the site plan). With a unanimous roll call vote, the motion was carried.

6. *Staff Item – Workshop Item - Brian Mabry*

Brian Mabry reported that the workshop meeting dates had been scheduled for the first Thursday of each third month of the year. He discussed with Mr. Godlewski possibly having the workshop every third month, but at the end of the Plan Commission meetings. Mr. Mabry stated that there has not been many in attendance, so they decided this time might be better.

Mr. Campanello asked how long the meetings lasted. Mr. Mabry thought the meetings averaged 1 to 1 ½ hours. Mr. Doriot did not think there would be a problem if the load was the same, but if Plan Commission items increased people may leave directly from the meeting. Mr. Kolbus stated participation may be agenda specific. Mr. Doriot commented that if other people were going to the meeting that they would not know what time it would be held, because it would depend on when the Plan Commission meeting ended.

Roger Miller felt it would be better for him because he could participate after the Plan meeting. Mr. Burbrink felt if the economy picked up the Board would be very busy. Mr. Godlewski did not think the meeting would generally last longer than noon.

Mr. Kolbus asked if there would be a more convenient time of day. Doug Miller was not opposed to it, because he would already be here as long as they would finish around noon. Mr. Doriot stated as long as they could advertise the time for general public to be there they should try it and if it does not work then change it.

Mr. Yoder suggested if they see there is a light agenda they could schedule it. Mr. Mabry said they would try it and see if they could be finished around noon. It will still be every third month. Mr. Kolbus said they would need the BZA members also. Mr. Doriot suggested they ask the BZA members about it also.

* *(Doriot stepped down from the Board at this time.)*

7. The application for a zone map change from A-1/DPUD-B-3 to A-1, for **Iouri Petrenko & Lydia Khailo** on property located East off of Maple Lane a distance of 115 ft., 400 ft. South of Waterford Street (CR 40), common address of 106 S. Maple Lane in Olive Township was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #106SMapleLn-120905-1*.

Iouri Petrenko was present for the meeting and Andre Khailo, 106 S. Maple Lane, Wakarusa, Mr. Petrenko's son, represented the petition. He said that Mr. Khailo wants to tear down the old shed and build a larger one. Roger Miller noticed from the site plan displayed that the proposed shed would be located at the northeast corner of the property and he questioned how Mr. Khailo would access the building. Mr. Khailo said they would go through the yard and the shed was going to be used for storage.

Simon Stalter, 12601 Shively Road, Bremen, has known the petitioner for 20 years and encouraged the Board to approve the request.

Blake Doriot, P.O. Box 465, New Paris, is currently working with Ron Martin, the neighboring property owner to the east, who purchased the property from Glen's Tire. He said the original PUD for this property required buffering with pine trees; however, when the Petrenko's purchased this property there was an understanding that there would not be any buffering required. Currently, Mr. Martin from Martin Trust is working through some flood plain issues and he has no problem with the request for rezoning, but Mr. Doriot wanted to get on the record that the buffering was no longer required when Mr. Petrenko purchased the property and he agreed the buffer did not need to be moved over (along the east property line of the subject property).

There were no remonstrators present.

A motion was made and seconded (*D. 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, a motion was made and seconded (*Yoder/R. Miller*) that the Advisory Plan Commission recommend to the Wakarusa Town Council that this request be approved in accordance with the Staff Analysis.

Prior to voting on the motion, Mr. Warner asked if the buffer was carried on the Martin property, but Mr. Doriot said it was on Glen's Tire property when it was platted. He explained that a portion was then sold to Martin Trust, but this piece had been previously sold to the Petrenkos. Mr. Doriot said he was told that they would not need to move the buffer back. It was then clarified that if they want a buffer there, the petitioner has to put it on their own property.

A roll call vote was then taken and the motion was carried with a unanimous vote.

* (*It is noted that Mr. Doriot returned to the Board at this time.*)

8. The application for a zone map change from A-1 to M-2 and to establish a Conditional Industrial Unit Development to be known as ***HILTY CONDITIONAL INDUSTRIAL UNIT DEVELOPMENT M-2***, for Jeffrey M. & Allison S. Hilty represented by Marbach, Brady & Weaver, Inc., on property located on the East side of SR 19, 1,015 ft. South of CR 36 in Harrison Township, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #SR 19-120831-1*. He commented that the site is rolling and does have some issues with drainage, but is adequate for this type of proposed use.

Mr. Burrow explained that with the M-2 Conditional Use it is the manufacturing of cement that determines it to be the M-2 use; not the recycling of concrete. Also, he mentioned that they had amended the Elkhart County Comprehensive Plan to add the Wakarusa future land use proposal map which indicates that it will be approximately one-half mile from the edge of the proposed industrial area for the Town of Wakarusa. Mr. Burrow said they felt this type of use would be appropriate in supporting this type of development that will occur, and the redevelopment of certain areas within Wakarusa will need this type of assistance. Subsequently, they recommend it does meet the Elkhart County Comprehensive Plan and it also meets the intentions of growth in and around the Town of Wakarusa.

Mr. Burrow stated that Elkhart County did not establish a land use map, but only established policies and objectives; therefore, there is no land use proposal for this area within the Elkhart County Comprehensive Plan.

Chris Marbach, Marbach, Brady & Weaver, Inc., 3220 Southview Drive, Elkhart, represented the Hilty family and Hill-T Excavation. He appreciated the favorable recommendation given on the Staff Report. Mr. Marbach explained that the location of the site is 800 ft. south of CR 36 on SR 19. They have an existing special use permit for the excavation business that they have been operating for several years. He then outlined the self imposed conditions listed on the Hilty plat. The existing Special Use will remain unchanged, any stockpiles within the existing Special Use area will be removed and will not return, and all of the activities will be contained within the area that pertains to the recycling of concrete. Mr. Marbach stated that they broke this area down into three sections with the southern 100 ft. will be where the raw material, broken up concrete, come to the site from the Hill-T Excavation business. Mr. Hilty will haul it there and as long as it is

clean concrete that can be recycled he will stockpile. Fortunately, there is a large tree in the corner of the property that helps hide that pile and the tree will stay to buffer the pile.

Once or twice a year as the pile grows and gets large enough to fit in the 100 ft. by 200 ft. area they will bring in a portable concrete crusher which will set in the middle 100 ft. The crushing equipment has conveyors to feed in and feed out. The concrete is fed in and it comes out as No. 2 and No. 53 that are equivalent to the INDOT standards to build roads, driveways, etc. Mr. Marbach said on the northern third after the concrete comes off the conveyors the material will be stock piled and sorted for reuse and redeveloped into whatever kind of material is needed. The crusher will be at this location for three to four weeks, depending on how long it takes to crush that 100 ft. by 200 ft. pile and then the crusher will leave. Therefore, part of the year there will be a stockpile of broken concrete, it will be crushed and then the rest of the year there will be a pile of raw material, recycled concrete. The process will not be stagnate, but it will change.

Mr. Marbach said if for some reason Mr. Hilty would get a big demolition job, they have given an option of twice a year, but he really anticipates it will be once a year. It takes him time to gather the material, three or four weeks crushing time and then he will have the raw material to sell again. They stipulated that crushing would be from 6:00 a.m. to 6:00 p.m., Monday through Friday and 6:00 a.m. to 12:00 p.m. on Saturday. He limited the hours so there would be no work in the evenings.

Mr. Marbach said this type of recycled material is in high demand because often the source is limestone, which is harder to get and has to be trucked from farther away. It is much more economical for everyone in the County to have access to this material locally. He requested that the Plan Commission give this request a favorable recommendation.

Roger Miller asked if there was noise or dust issues with this crushing operation. Mr. Marbach said there is some noise. He said Mr. Hilty was in attendance to answer any questions the Board had. Mr. Doriot asked how many tons was in the stockpile.

The petitioner, Jeff Hilty, 64200 SR 19, Goshen, stated that the last time he thought there was 10,000 to 11,000 tons of that material on that pile, which was a big pile. He thought 6,000 tons is what they would like to have before they crush and recycle it. He thought it would be two years before he could get enough material to recycle the first time and anticipated he would have them recycle once a year. He said it took them 4 weeks to crush 11,000 tons and thought it would take 2 weeks for 6,000 tons of material. Mr. Campanello noted that his operation was toward the rear of his property. Mr. Hilty said he would like it closer to the road, but realized because of the neighbors, moving the operation back would be more advisable. Mr. Hilty said there was very little dust the last time. In July and the hotter months of the year there is more dust, but he preferred to do the crushing late fall or early winter for the least amount of dust.

Mr. Hilty stated that he could not hear the crushing of the concrete inside his house. He clarified that there is no banging, but what can be heard mostly are the engines. He said the machine moves back and forth, it is not like a hammer and there is no grinding sound, but it is a pressurized process. Simon Stalter, 12601 Shively Road, Bremen, said he would be doing the crushing. He explained it is a jaw crusher and the concrete is fed into the jaw and one plate moves and crushes it. It crushes through the crusher and it is screened and when it goes out on the conveyors there are two piles and it is done. He informed the Board that other crushers are more noisy. He agreed during the dry summer months it is dustier, but they can use dust control.

Sandra Kreps, 27870 CR 36, Goshen, said this is the third time she attended a meeting to try to prevent this business use from happening. She has pictures that the zoning board has that show the dust. She said Mr. Hilty stated in his first letter that he proposed to the zoning board this would

be his only time to do it, it would be one time and that was all and he would not do it again. Mrs. Kreps said she has lived on CR 36 for 35 years and other neighbors across the street from her are elderly and have health problems. She said there is a lot of noise and she can be inside her house and hear the crusher.

Mrs. Kreps asked the Board not to approve the request to rezone from A-1 to M-2. She felt he could go two miles down the road to Utilimaster to rent or buy the land, because the business would not be around houses. She worries about the noise, air, water and pollution and also, the noise of the trucks going in and out. She said it is loud when they empty the cement and it is loud when he loads it into a truck afterwards. Mrs. Kreps said she has a family to support and she works nights, so it is bothersome to her. She said Mr. Hilty did not follow the hours of operation before, because he would work after and before the times agreed upon.

Mrs. Kreps did not understand why he is continuing to operate this type of business since he said before that he did not plan to do it permanently. She also said he told the Board the piles would be gone by spring, but there is still a large pile there.

Amos Raber, 64254 SR 19, Goshen, he lives next door to Mr. Hilty and owns the oak tree previously discussed. He has no issue with the request. Mr. Raber also hears the trucks coming and going, but it blends in with the other traffic on SR 19. He is in favor of the request.

Lawrence Martin, 64394 SR 19, Goshen, lives south a couple of houses from Mr. Hilty. He felt Mr. Hilty is a young man building a business, he does a good job, keeps it clean and he has no problem with it.

In rebuttal, Chris Marbach, added when Mr. Hilty went to the Board of Zoning Appeals the first time they wanted to see if there was a possibility for the business, but since time has gone on there is more of a demand, because there is a limestone shortage and it is hard to get. He is just trying to move forward and this is a needed product. Instead of taking all of that concrete to the landfill it can be recycled and reused back into the local community.

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

Mr. Kolbus reminded the Board that there are two requests to consider; a rezoning and a conditional use.

During discussion, Mr. Yoder commented that there is a significant amount of land buffering the residence to the north.

Mr. Doriot said he was worried about the amount, but 6,000 tons is roughly 300 loads and equates to an average of one a day, so his concern has vanished.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*D. Miller/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-2 be approved in accordance with the Staff Analysis. A roll call vote was taken, and with a unanimous vote, the motion was carried.

Mr. Doriot reviewed item #12 on the list of self-imposed conditions on the site plan and suggested it be amended to read "... in and around Elkhart County". He said the petitioner could be limiting himself to sales in Elkhart County and pointed out that St. Joe County is only three miles away.

A motion was then made and seconded (Doriot/Campanello) that the Advisory Plan Commission recommend to the Board of County Commissioners that the request to establish a Conditional Industrial Unit Development-M-2 be approved with the self-imposed conditions, as revised by Mr. Doriot, imposed as a commitment as follows:

1. Existing Special Use granted by the Elkhart County Advisory Board of Zoning Appeals on October 20, 2011, for warehousing and storing of excavation equipment will remain unchanged except as modified herein.
2. Any stockpiles within the Existing Special Use area will be removed and will not return.
3. All concrete recycling activities will be done within the specified work area as shown on the site plan submitted to the Plan Commission on October 11, 2012.
4. The South 100' of this request will be used to stockpile concrete rubble as shown on the site plan submitted to the Plan Commission on October 11, 2012.
5. The Middle 100' of this request will be the location of the portable concrete crushing machine as shown on the site plan submitted to the Plan Commission on October 11, 2012.
6. The North 100' of this request will be the location of the recycled concrete stockpile (#2's and #53's) as shown on the site plan submitted to the Plan Commission on October 11, 2012.
7. Hill-T Excavating business frequently gets jobs that have concrete to be removed. Said concrete will be trucked to this location and stored on the southern portion of the designated area as shown on the site plan submitted to the Plan Commission on October 11, 2012.
8. Once or twice a year a portable concrete crushing machine will be brought to the site for about three to four weeks to crush (recycle) the broken chunks of concrete.
9. The temporary crushing operation would be from 6:00 am to 6:00 pm Monday thru Friday and 6:00 am to noon on Saturday.
10. The recycled concrete would exit the portable concrete crushing machine on the north side of the work area on conveyors. The recycled product is screened to two sizes #2's and #53's.
11. After each respective broken concrete stockpile is gone and crushed, the portable crushing machine will be removed from the site. (About three to four weeks, depending on weather and the size of the pile.) At this point, the only material remaining within the work area will be the recycled concrete stockpile available for Hill-T Excavating to sell and use on construction sites in and around Elkhart County.

With a unanimous roll call vote, the motion was carried.

9. The application for a zone map change from M-1 to a Detailed Planned Unit Development-M-1 to be known as **LAKOTA DPUD**, and for Secondary approval of a Detailed Planned Unit Development to be known as **LAKOTA DPUD**, for GGT Real Estate, Inc. represented by Wightman Petrie, Inc. on property located on the East off of SR 15 a distance of 1,300 ft., on the South side of Indiana Toll Road, common address of 52400 SR 15 in Washington Township, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis for both applications, which are attached for review as *Case #52400SR 15-120904-1* and *Case #52400SR 15-120904-2*. Mr. Doriot asked if this property was the old Skamper property and Mr. Burrow said it was. Mr. Burrow said there had been a lot of demolition of buildings, but there had not been building permits for new buildings in quite some time. He did not think the original buildings received permits because Elkhart County did not start issuing permits until sometime in mid-1970.

Prior to the petition, GGT secured a legal description and created a cross-access maintenance agreement to establish an access drive that prior to this did not exist. When the parcel

was originally developed there was a 30 ft. parcel that extended all the way out to SR 15 as the access and then over the years started to be incorporated into each property. When LAKOTA asked for a permit they were asked to correct the property to create a cross-access easement prior to issuance of any permits. Once they took care of the cross-access easement and made the filing for the Planned Unit Development they did receive a permit. Mr. Burrow said that is essentially why the Staff Report recommends approval the Detailed Planned Unit Development, because a lot cannot be platted without direct access onto a county right-of-way. He said they would be granting relief from that requirement and they did ask that the drainage standards not be imposed at this time.

Mr. Burrow stated that the plat that they submitted references all the requested detail from the cross-access maintenance agreement, subsequently; the Staff recommends that the rezoning and the plat be adopted by the Plan Commission. He said this still goes as an advisory act to the Board of County Commissioners for their final determination.

Kenny Jones, Jr. Wightman Petrie, Inc. had nothing to add to what Staff reported and asked for approval.

There were no remonstrators present.

A motion was made and seconded (*Yoder/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 and seconded (*Doriot/D. Miller*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for zone map change from M-1 to Detailed Planned Unit Development- M-1 be approved in accordance with the Staff Analysis. A roll call vote was taken and the motion was carried with a unanimous vote.

During further discussion, Roger Miller said the only issue in this area is the access out to the highway. Other than that, he said it is designed for manufacturing.

For clarification, Mr. Burrow said the petitioner did establish a governmental control over that access in the maintenance agreement to be able to make improvements and transfer the cost to other property owners should that be necessary. He acknowledged that there was discussion about having that access go down to Commerce Drive, but he pointed out the area that was sold off of the development and is no longer being development with the Wagner property.

A motion was then made and seconded (*D. Miller/Doriot*) that in accordance with the Staff Analysis, Secondary approval of this Detailed Planned Unit Development be granted by the Advisory Plan Commission and the motion was carried with a unanimous roll call vote.

10. The application for a zone map change from A-1 to a Detailed Planned Unit Development-A-1 to be known as **MARTIN ANIMAL BEDDING DPUD**, and for Secondary approval of a Detailed Planned Unit Development known as **MARTIN ANIMAL BEDDING DPUD**, for Carl and Amanda Martin (Owner) and Kevin Martin (Developer) represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of CR 17, 2,200 ft. South of CR 38, common address of 65448 CR 17 in Elkhart Township was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis for both applications, which are attached for review as *Case #65448CR 17-120806-1* and *Case #65448CR 17-120806-2*.

Mr. Burrow stated that the Plan Commission was asked to review and give consideration to a substantial change to a petition for the Detailed Planned Unit Development. He said they did confirm that we could redocket this request based on the addition of an alternative access plan and design off of CR 38.

Barry Pharis, Brads-Ko Engineering and Surveying, 1009 S. 9th St., Goshen, represents Carl

Martin, owner, and Kevin Martin, purchaser/operator and petitioner. Kevin Martin and his wife were present and they own Martin Animal Bedding.

He was pleased with the favorable Staff recommendation. Kevin Martin owns a business that does grinding right now. It is on the corner of SR 119, CR36 and CR 17. The building that he uses is almost on CR 36, and it is a small building with its opening to the west side. All the history and actions Mr. Martin has faced over the years are based on the conditions at that location. He said the barn is elevated, so westerly winds come through, lifts that dust, takes it over the building onto CR 36, and onto Mrs. Scott's residence. He also mentioned that all loading and unloading is done outside.

Mr. Pharis stated that the proposed building offers extraordinary solutions to these problems. It will be constructed in size and height to allow all trucks to enter for unloading and loading. He said all activities will be under roof and there will be no loading and unloading of product outside. He felt that this alone will limit dust dispersal. Additionally, the opening will be on the east end, not the west end, so all the predominate winds from the west and east will be blocked by the building walls and will not permit that dust to flow out.

The site, itself, sits in a bowl 13 to 20 ft. below the elevation of CR 17 and the predominant wind force that affect this kind of business. The winds will blow over it and they have taken the additional caution of the east end opening and the size of the building to prevent any outside loading and unloading.

Mr. Pharis said the trees on the east and the south were measured by his field crews at 80 to 90 ft. tall as an additional block for any dust dispersal that were to happen. The closest properties to them directly north are 1,900 ft., northeast 1,900 ft., and east over 3,000 linear ft. Mr. Pharis said that identifies the difference between the locations. Internally, Mr. Martin has taken substantial steps because in grinding operations and with past history, however, not of Mr. Martin's business, there is a danger of fire. Mr. Martin learned early on that fire in the grinding business is caused by metal contacting metal. On his grinders he has found all of the components that can connect to each other and rubberized them, so there is not direct metal to metal contact. Mr. Pharis said they have ongoing inspections throughout the day to make sure they do not have metal to metal contact. At the end of the day they do another inspection and an hour after they have closed they come back for a final daily inspection.

In the event of fire there is a reactive step that he has taken. On his current site, in a heated building, is a 2,500 gallon tank with a hose that allows him to bring water to this site rapidly if necessary. The new site will be larger and he is proposing two 2,500 gallon tanks each with their own hoses in the event that there would be a situation of fire.

Mr. Pharis said if they looked for another location in Elkhart County that would be superior to this, they could not find it.

He went on to explain that the property was at a prime location for his business as CR 17 will be a thoroughfare from Michigan to Warsaw or US 6. County Road 38 and CR 40 come in from Goshen and his predominant manufacturers are located in Goshen. He said the heavy traffic will be on those roads and Mr. Martin's property is sitting right in the middle of it. He said on CR 17 between CR 38 and CR 40 Mr. Martin has the only two curb cuts. One is for the house and one for the additional property for the business.

Mr. Pharis stated that waste disposal in manufacturing is critical. Either it is disposed of in some type of method or it fills the landfills. Reasonable cost of disposal of this wood material is a significant advantage that Elkhart County enjoys, because there are multiple grinding firms that take this wood product, grind it and use it for other purposes. Mr. Martin has found a niche market. He

grinds the wood and creates bedding to serve 300 to 400 farmers and they ultimately till it back into the ground which creates 100% recycling. He keeps the cost reasonable for the farmers and the cost is reasonable for the manufacturers.

Mr. Pharis said they have provided the highway department with everything they have asked for. The highway department has provided a complete set of what they want Mr. Martin to accomplish on the county road. They want a passing blister, to consider closing the residential drive and combine it into one single drive so there would only be one access point to CR 17. He asked that they keep in mind that CR 17 was constructed with the purpose of serving truck and semi traffic.

Mr. Pharis addressed the noise issue and informed them that he went out to CR 36 (current location) and sat next to the barn to listen for the noise of the operation. Mr. Pharis said he could not hear anything and his hearing is very good. He pulled up in the driveway, flagged Mr. Martin down and asked when they were going to start the grinding so he could hear it. Mr. Martin told him they had been grinding since 8:00 a.m. Mr. Pharis said about all anyone would hear is a hum, so there will not be any noise impact in the new site to anyone.

The hours of operation will be from 6:00 a.m. to 6:00 p.m., Monday through Saturday, just like a farm. No operation on Sunday.

The other issue that has come up in the past is there is a 300 acre site on SR 19 and the Bypass that would be perfect for grinding and they agree. He hopes a grinding operation will be established there. They want all the grinding operations that can be in Elkhart County, be here. The bottom line is if they are successful it is good for manufacturing in Elkhart County which creates jobs.

Mr. Pharis stated that not only do they need County approval to succeed, but they also need IDEM approval. They must have an air quality control permit and a solid waste disposal permit. Mr. Martin has both of those permits at his current location and he has hired a consultant that would work on getting the same permits at this location. The permits require certain standards and inspections.

Last February the Plan Commission sent this proposal to the Commissioners with a unanimous recommendation of approval. When it got to the Commissioners it was voted down two to one. Mr. Pharis was surprised and afterward talked to the Commissioners to find out what the problem was. Elkhart County spent a great deal of money relocating Linton's and the Commissioner's did not want that situation to happen again.

Mr. Pharis said that is why they came back with a plan. They have an easement that takes them on the east end directly north to CR 38. That easement is listed on the plat, shown on the primary plan. There is an agreement in place that is noted on the plat that should Elkhart County say they want the entrance on CR 17 for Martin Animal Bedding to be closed, then it will be closed and a new entrance on CR 38 would be created. That agreement is a buy/sell agreement.

Mr. Campanello said if the County wanted to close that entrance off of CR 17, he thought that would be a self-imposed problem to the County to do that. Mr. Pharis pointed out that they have an alternative if that happens, to create an entrance on CR 38.

Craig Lambright, 1424 Canterbury Ct., Goshen, represented Woody Haack, an adjacent property owner and Mrs. Haack's son-in-law. He asked the Plan Commission for consideration of the land use of Mr. Martin's property for his business. He read some lines from the February 9, 2012 Staff Report pertaining to Mr. Martin's business, "The proposal is inconsistent with the Comprehensive Plan. The proposal does not demonstrate integration with the land use in a manner

that attempts to conserve adjacent property values. The proposal is not consistent with the intent of the County Zoning Ordinance to promote public health, safety, and general welfare. The proposal is not responsible development and growth.”

Mr. Lambright thought those items were interesting and he was surprised the petition moved forward after that Staff Report was given. His question was who makes Staff Reports and are they really of any value if they are continually overlooked.

Mr. Lambright’s question was with the land use and dealing with their taking a business that is approximately on 130 acres now and putting it back on a 10 acre parcel that was purchased by the Martin’s from his family, because they plan to have their business with the trucks on this smaller piece of property. It was previously reported that the closest property to it was 1,900 ft. and he did not think that was correct on a piece of property that width. He thought there were properties adjacent much closer than that. However, Mr. Pharis may have been referring to residential properties. Mr. Lambright stated that even if they cut the sawdust and residue that will blow around considerably it will still affect the properties around there because it is a small piece of property and very close to neighboring properties.

Mr. Lambright stated that the Martin’s were good business people, but when his family sold this property to the Martins there was an understanding that they would not do anything to devalue their property. He said it was a verbal as well as a written contract that relates more to animals. He read, “The conveyance of this real estate is subject to the following restrictive covenants. Real estate shall not be used for the confinement of feeder operations of livestock, animals, poultry, of any kind, etc.” He said the intent was having a business there that would devalue the property.

He stated it would be good for the Martins to consider what their word was and what they signed up for and make appropriate moves in their business.

Mr. Campanello asked if the Martins owned this business when they bought this property. Mr. Lambright replied that they started the business in 1999 and the property was sold in 1998.

Kenlyn (Woody Sorg) Haack, 315 Nebraska Drive, Goshen, said she sold that property to Mr. Martin and he told her he would not do anything to devalue any of her property around there. She used to live in a farmhouse on CR 38, where the new road is proposed to go and she sold that to Mr. Sherck. She said he does not really want this, but he will not oppose it and they have a pond and wood cabin in the back. Her daughter lives on CR 38 and the County would propose to buy her property, but they have not signed anything yet, because it depends on what happens with the Martin property. Mrs. Haack had been offered a lot of money to sell the property so a subdivision could be created, but she promised the neighbors she would not do that. She stated that she does not want an industrial business on the property and feels it should be in an industrial park.

In rebuttal, Barry Pharis stated that the 1,900 ft. distance that was mentioned was for residences. He agreed the north property line was about 150 ft. Mr. Martin and his wife have about 130 acres with a residence, barn and dairy animals. The current location of the barn used for the grinding operation is adjacent to CR 36, it is elevated, the opening is to west, with predominant winds, and they admit that they are putting dust onto Mrs. Scott’s property.

Mr. Pharis went on to discuss fugitive dust and related it to VIM’s or Soil Solutions issues. He said they are in an M-1 zone and have an incredibly expensive dust collection system; however, the simple solution of a dust collection system has not solved VIM’s problems, the stacks outside are the problem. Mr. Martin has made it clear that all of his operations are indoors. They do not stack anything outside because Mr. Martin’s clients do not want wet bedding. Mr. Martin’s reputation with his farm based clients has been a quality product.

Carl Martin bought the property from the Sorgs and the agreement and the deed restriction was for raising animals. Mr. Pharis stated he found nothing more arrogant in Elkhart County than to put a deed restriction on A-1 land to prohibit the raising of animals, but it was done. He said they had the opportunity at that time to deed restrict anything they wanted. They could have written in no business, no trucks, but they didn't. He said they will not impact the Sorg property. Elkhart County has chosen to take a corner property for the location of Highway Department equipment and sand. Mr. Martin's business will not impact the neighbors. Mr. Pharis talked to a neighboring property owner where the driveway may go right by him and his comment to Mr. Martin's attorney was that if they put that road in he will just use it for his trucks.

Mr. Pharis said he is aware that the Sorg family is not happy with this decision, but looking at the big picture where the traffic is coming from and where the product is going, keeping that wood out of the landfill, and putting it back in the farm place makes this an agricultural opportunity.

Mr. Pharis commented on Mr. Lambright's reading of the Staff Report from February 2012. He informed them that Robert Nemeth wrote that Staff Report, but he is no longer here. However, after the hearing in February, Mr. Nemeth contacted him and said after listening to Mr. Pharis' presentation he agreed with him that this is an agricultural business and deserved to be in an agricultural zone. In closing, Mr. Pharis stated that Kevin Martin is not the problem, he is the solution and he would like to see this petition move forward and asked for their vote.

A motion was made and seconded (*Warner/D. Miller*) that the public hearing be closed and the motion was carried with Mr. Campanello voting in opposition.

Mr. Lambright had additional comments; but, his biggest problem is that Kevin Martin has had his wood grinding business for over 10 years, etc. Mr. Burbrink said he could not introduce new information after the public hearing is closed. The Rules of Procedure were then explained to the audience. Mr. Kolbus clarified in the discussion portion between Board members they can ask a specific question, or get clarification, but cannot allow additional testimony.

Mr. Yoder understood that when the landowner sold the property it was a negotiated deal and they were within their rights to impose restrictions, but it is difficult in those situations to foresee all the potential uses that might happen on that new property. Mr. Martin is now grinding on a site that is not appropriate and the question before them was, is this an appropriate site. The restrictions on the deed did not prohibit this type of use, but other types of agricultural uses.

Mr. Yoder felt this relates to other discussions they have had on the importance of zoning and being very clear what the particular use should be in that zone. He had always agreed it is an agricultural use, specifically, this operation because it is creating animal bedding, but mulch is an agricultural use as well. Mr. Yoder said this use fits in this area with adequate buffering. He also affirmed Mr. Pharis' observation about the property on the corner, because it will become a major storage site for salt and sand, because it is needed on CR 17.

Mr. Burbrink asked about the driveway up to CR 38 and whether the conditions should be met to close CR 17. He wondered if the driveway would be hard surface. Mr. Pharis said it would be a paved driveway meeting the standards at that time including the CR 38 ingress/egress requirement.

Mr. Kolbus said if this petition gets approved, in the narrative report #12 and #13 talks about public improvements and commitments and he asked if they would become part of the PUD Ordinance. Mr. Burrow said presently ingress/egress is referenced on the plat that will be adopted as part of the Ordinance. It does not have the detail of the actual instrument or agreement, but it could be something to attach it to the ordinance. Mr. Kolbus clarified that those representations need to be in the Ordinance, either separate paragraphs or part of the site plan. He said if they

become part of the Ordinance then there will be public notice.

Mr. Burrow stated they could establish item #12 of the narrative as a condition. Mr. Kolbus said both items #12 and #13. Mr. Burrow agreed it would be in the Ordinance of record. Mr. Kolbus pointed out that item #3 of the narrative talked about the area on the east side of the building and that everything would be done inside, so he recommended that they include that in the Ordinance as well.

Mr. Campanello understood that the Sorgs were concerned about property values, but when he saw what Elkhart County was going to do on the corner that would take away property value without Mr. Martin's business. Therefore, he did not think that would be a problem when the County would have trucking and storing of material there also.

Mr. Yoder saw that there could be a potential problem with some of the land Sorgs own, because currently it could be turned into residential because it is A-1. He said a business use would not make it very good for residential; however, currently the agricultural use has a higher value than the residential use.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*R. Miller/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 a Detailed Planned Unit Development-A-1 be approved in accordance with the Staff Analysis, with items #3, #12 and #13 from the narrative to be included as conditions in the PUD Ordinance. With a roll call vote, the motion was carried unanimously.

A motion was then made and seconded (*Warner/D. Miller*) that Secondary approval of this Detailed Planned Unit Development be granted by the Advisory Plan Commission as presented and in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

11. *Zoning Ordinance Update – Chris Godlewski*

Mr. Godlewski wanted to summarize the discussion held at the Policy Committee meeting. He also sent the Board members an email summarizing the meeting. He said there will be another Policy Committee discussion on November 1st. They plan to discuss pyramid zoning and then the next Plan Commission meeting will go over the critiques of the existing ordinance and draft ordinance. Mr. Godlewski thought they were probably about a month behind his anticipated schedule. He felt the meetings were going well, however.

Mr. Godlewski said there were two points of discussion. One was the wellhead protection overlay district. He felt it was a quick discussion and was generally moving forward with regulations that parallel existing wellhead ordinances from the cities. He said they could come up with a list of things later on when they talk about going over each section of the ordinance.

Mr. Doriot asked about the expansion of wellheads into the county. He questioned whether there was any protection for those people that have a large agricultural operation, business, or a residence. He also asked if a well is driven on the property, suddenly there would be a circle drawn and if they do not do the hydrology study underneath, that the community is affected by all of the restrictions pertaining to how they store their fuel, etc.

Mr. Godlewski mentioned that a wellhead protection district is established by the city, the business, residence, or farm and they will have to give public notice and have hearings. Mr. Doriot thought it would have to be in writing and the landowners should all be notified. Mr. Godlewski noted that it is also governed by the State. Mr. Kolbus questioned whether they were going to put the district in the Elkhart County ordinance.

Mr. Yoder sat in a few of the meetings and he said there are already some wellhead

protection districts in the county. Mr. Doriot gave an example of Skyview Trailer Park being one. Mr. Yoder clarified he was concerned about extraordinary management or practiced restrictions that the city might want that may not be required by State or Federal regulations.

Mr. Godlewski thought they were trying to simplify it to come up with a list of things that should be in an overlay district. He said it would be similar to a wellhead ordinance that exists. He did think it needed to be simple, because ordinances are already established.

Mr. Doriot was at a State Natural Resources Water Committee meeting at Purdue and water is a big thing and will attract businesses. He said if they start dropping wells into an aquifer that is probably the largest and best in North America, there could be a business that is a big user and will draw 10 million gallons a day out that will affect a lot of people.

Mr. Burbrink stated that the DNR division of water handles the usage issues and they have spent half of their summer at Elkhart County.

Mr. Yoder stated that there are specific wellhead protection ordinances that Elkhart County needs to deal with locally. If a wellhead protection area is established he said an overlay may be needed, so future uses are covered. Mr. Doriot believed that the people who own the land need to have a say in a municipality putting it there and Mr. Yoder agreed. Mr. Kolbus informed them that the county cannot control that. He said that is between the State and municipality where it goes. Mr. Doriot said placement of a landowner's residence is controlled, so it seems you could control where someone puts a public well. Mr. Kolbus explained that there are certain things the county is exempt from because it is controlled by the State of Indiana. Mr. Kolbus said he would look into that. Mr. Godlewski stated that if a municipality is going to establish it anyway it is beyond our purview and scope. He was just saying there might be a short list of uses that would comprise new regulations. Mr. Yoder wondered if a public hearing would be required if the city does reach out. Mr. Kolbus told him that there is a public hearing process. Mr. Godlewski added there has to be a notice to adjacent property owners also.

Mr. Godlewski stated that the second point of discussion were residential uses in agricultural areas. He had a list of about three items of the ideas presented. Mr. Godlewski said the motion was to keep the standards the same as in current zoning and subdivision ordinances with the addition of developing notice requirements to assist with conveying residential/agricultural land use conflicts. Mr. Godlewski said the second point for that motion was developmental requirements to help offset the land use conflicts, such as, greater setbacks of residential adjoining agricultural and manufacturing uses. The thought was to use developmental standards to help ease those conflicts. He said this concept was a unanimous recommendation by the Policy Committee to be passed on today for a decision.

Mr. Godlewski felt it was important we know what should be required so we can draft the regulations. Mr. Yoder said his first observation after going back over the previous two plus years that they created the first draft that may or may not be used, is that he wanted to create different residential zones for the rural area and pull that use out of agricultural. He said in the course of that they had Sheriff Books come in to talk about the conflicts that he sees. County Highway talked about the conflict on the county roads, because if a primary arterial is established and allow that road to be stripped out, the speed limit could go from 55 mph to 35 mph because of the number of curb cuts. The land use that developed in some areas actually creates a community wide conflict. Mr. Yoder said they had community-wide surveys and went through a wide variety of input sessions and the result was residential does not belong in an agricultural zone.

Mr. Yoder said he sat in on a meeting the other day and he shared his perspective as a

farmer about some of his concerns. He said the Amish representative was also there; he lives in an Amish subdivision and builds spec homes. He identified some of the conflicts with the Amish and he called Mr. Yoder's operation 'dumb' because it was on two sides of the road. However, he did not mention Jayco, who is a quarter of a mile closer to him and on two sides of the road north of him. Dwight Moody from Farm Bureau suggested they do need to take a look at rezoning some of the higher residential areas. Ken Jones, Jr. was there and said commercial has to comply with developmental standards so there are no conflicts, so why shouldn't residential. Mark Salee from Middlebury was there and reminded Mr. Yoder that it is not just farmers that have a problem, but he referenced Syndicate Systems in Middlebury, and said they have an agricultural use next to them that would not be appropriate to become residential. He reiterated it is not just farms, it is manufacturing as well and there are numerous examples in the county of manufacturing and residential conflicts.

Mr. Yoder said his public policy in that meeting identified some issues that need to be talked about, but it was a unanimous decision to leave it as is.

Mr. Burbrink asked what the problem was with residential existing as an agricultural use. Mr. Doriot said the people purchased a property and feel that they have a right with that property and, legally this Board can recommend to the Commissioners that this right be taken away. He said the Commissioners could tell them that they are going to take away their rights with respect to property and one would have to come back and ask permission to change uses. Mr. Doriot said at that time they can come back to this Board and request residential there. He said it would not be 100% certain that they would be able to place residential in agricultural in the future, but it is 100% now that they can. Mr. Doriot felt if they put some reasonable restrictions on residential it could be allowed, for instance, for a rural subdivision one of the restrictions could be that the property has to be at least one acre per lot.

Doug Miller stated that statewide the Home Builders Association supports smart growth when it allows builders and developers to put housing where homeowners drive demand; not the community zoning ordinances driving a demand. Mr. Miller pointed out that when the Plan Commission says they cannot build in agricultural land, but they have to build on contiguous land to cities and towns they will drive up the cost of housing to the end buyer. Ultimately, what happens is when they start driving up the cost of housing, it would discourage business development, because the communities would become less attractive for families to move to. Indiana has always been the leader in affordable housing and Elkhart County has always been an innovator in the community. So why would Elkhart County want to take buildable land away from the product mix with respect to that.

Mr. Miller said the perspective should be that all land in an agricultural zone is buildable, if it is economically feasible to do it. He thought the building community would support restrictions where it is up front and change requirements where applicable. He stated that the Board should not want to take residential out of agricultural.

Mr. Burbrink asked what about industrial that is already established and there is a piece of agricultural right next to it. There is a potential conflict of interest, but it has not happened yet. He asked how the Builders Association would feel about that. Mr. Miller said that would be an all economically driven decision. If there are standards within the ordinance that can control how that property can be developed, the purchaser of that property is going to wonder if it is an economically viable solution to put housing there and make a profit. Mr. Miller stated that the economy is going to drive those situations.

Mr. Burbrink pointed out that there are situations where subdivisions have been placed on

soils that the builder and developer made a profit on, yet the problems that came about may not have been realized for two or three years later when it became an issue. He said he would like to see those situations addressed. There are homes where they would have to build an expensive mound system. He felt they may be engineering their way out of some problems that they should not be engineering their way out of. Mr. Doriot agreed they need to have some standards. He suggested there may need to be some more standards when they bring in their soil boring. Maybe the standard should be if their water table is high than they cannot put in a basement. The Board continued discussion on the agricultural zones and the conflicting uses in them.

From a Commissioner's perspective, Mr. Yoder referenced a letter sent from the Commissioners asking the Plan Commission to review the current ordinance because it is not meeting Elkhart County's needs very well. For instance, he has gotten 70 to 80 letters from people that live in a residential area in Dunlap and Jefferson that are currently zoned agricultural that want an open burning ban implemented. Mr. Yoder said he could not do that in an agricultural zone, so he suggested whatever they do, they need to create a zone so they can move the higher density uses into a residential area so they can look at policy issues that go along with residential.

Mr. Yoder's primary concern is conflicting uses for agricultural operations. He is also concerned about the direction this Policy Committee is going in creating a set of additional hoops for them to go through that may not be necessary in some cases. He was cognizant that Elkhart County wants to be an easy, builder-friendly place. Mr. Yoder suggested taking all of the A-1 areas in the county and make them all buildable and designate all of them Rural Residential, grandfather the current agricultural use and put certain agricultural uses within that zone for 4-H projects, Amish needs, or whatever. He felt they should let the agricultural community come to the Plan Commission and request to be A-2, an agricultural operation, and A-3, livestock operations, and if he has Rural Residential next to him, that person would have to come in to ask permission when the higher standards come into place. The Plan Department would see that there is an intensive livestock use on that property, if and when they planned to turn the 40 acres next to it to Rural Residential. They would only be allowed a certain density there and there would have to be a buffer or something. The only place that they really put extra development standards on is next to the agricultural community that wants to remain agricultural.

Mr. Campanello thought they should leave that decision up to the developer, if he is going to do that next to an A-3. He asked why they should put the restrictions there. Mr. Yoder said before Mr. Campanello was on the Board there were numerous times when subdivision plats would come before this Board and they would have liked to deny them or make changes, but they couldn't make changes or deny them. The developer was doing something that may not make economic sense, but it could not be denied because it meets the subdivision standards. Mr. Yoder is asking to change the subdivision standards to actually offer some protection. Mr. Campanello asked to change who and Mr. Yoder told him the adjacent land owner in order to protect that use.

Roger Miller was concerned about the subdivision that went in by Culver Duck Farm. He said the odor is very strong and they put a subdivision next to it. Mr. Miller asked whether they were trying to protect the people that want to sell the farm or the people that want to buy the farm. Mr. Yoder thought that would happen more as Elkhart County grows. His concern with keeping the livestock operations and larger operations go to IDEM. He said if there is residential in the area everyone is notified. This is when IDEM may deny that farmer approval for a larger operation, because it does not make sense with residential in that area.

Mr. Doriot suggested talking to IDEM and put a building permit requirement when the property owner plans to build a residence they will have to be cognizant of the fact that the farmer

in that area may want to add a duck barn or expand his business in some way. Since he elected to build in an agricultural area that is acceptable for that use. He said Agricultural expansion in A-1 could be recorded on every deed, also.

Mr. Yoder stated it is not just the IDEM permit process, but if they build 40 houses in that area there will be 40 IDEM inspectors watching that dairy operation. If there is manure on the road, mud on the road or he smells something, the farmer gets turned in. He said whatever the farmer does legally, it does not prevent someone from suing and there are enough examples where farmers created a lot of debt because they are always fighting something.

From a semantic standpoint, Doug Miller asked how Mr. Yoder's proposal differs from what the other members had in the discussion, because he did not see the difference. Mr. Godlewski stated what he was suggesting is similar to a discussion where residential development adjacent to agricultural or manufacturing go as a rezone. He thought that was an important consideration to the Plan Commission and Commissioners, because that would give all farmers a public hearing. He said the motion was to keep the standards as is with a minimum of 20,000 sq. ft.

Mr. Kolbus asked if Mr. Yoder's proposal was just the opposite, because instead of the residential developer asking for the rezoning, it is the farmer asking for agricultural zone. Mr. Yoder said they establish what the current use is right now, so if it is A-2 (farmland preservation district) and moved to Rural Residential then no extra development standards would be needed because that is crop land, so it would be minimal setback. He said if it is A-3 and could be 500 cow dairy then they have to think about how they would develop that area differently. He said the idea is to move livestock to A-3 and A-4 and if they wanted to build a large dairy or hog operation they would have to require rezoning to A-4. Mr. Godlewski clarified to Mr. Miller that if he was asking about Mr. Yoder's latest proposal where the difference is every larger farmer would be required to go for a rezone. Mr. Yoder said they could grandfather in the current uses and if they intend to sell out and build residential, then as Rural Residential they could sell out and be ready to build.

Mr. Burbrink said the loudest voices came through from people that wanted that right. Mr. Yoder said if this community wanted to turn into all residential it is not his job to say no; his job is to facilitate it happening in an orderly manner that protects the usage of those who prefer not to have it happen. Roger Miller pointed out that there would be one farmer's voice against 300 people that want a subdivision and the majority would win. Mr. Yoder said he was not sure of that, because Elkhart County does not have a clear understanding of where the agricultural community is at. He felt they need to have a couple of meetings with farmers and talk to them to find out what they want.

Mr. Godlewski asked if they wanted to make a decision one way or another to move forward with a proposal, or will this require additional meetings with other groups to come to the discussion again. He noted that the next workshop is December 6th. Mr. Yoder was not sure who made the policy decision and Mr. Kolbus told him the Plan Commission does and the Committee is just making a recommendation.

Mr. Doriot felt they needed to talk to the community, because the Ordinance proposed (Draft E) was basically, the same Ordinance his father-in-law was dealing with in Dekalb County where he had to jump through a lot of hoops to put a \$6,000 robotic milking parlor which was 1,200 ft. away from the property lines. His father-in-law thought everything sounded great and did not hear any complaints until he tried to do something.

Mr. Yoder said it is not the same ordinance, because they came to the Plan Commission with a 1,200 ft. setback, but reduced it to a 600 ft. setback. The Board realized they could go on with this discussion, but agreed they needed to get some feedback.

Roger Miller said one of the things they were finding is if you are a farmer then you are independent and that is just the way it is. He did not know how they could get a consensus on how each person's land can be used. Some of the Board members agreed with him.

Mr. Burbrink suggested pulling together a group of four to meet and discuss the items. Mr. Godlewski stated that he could not move forward until they find a solution to this issue. Mr. Kolbus clarified that the Staff needs guidance from this Board and if the Plan Commission is not ready to give them that guidance today a small group needs to be created to figure out where they are going, because Mr. Godlewski needs guidance to move forward. Mr. Godlewski explained they could not draft anything without an understanding. Mr. Burbrink said he would get a group of four people to see what they can come up with.

Mr. Warner mentioned a subject that comes up over and over is property values. He felt it was difficult to pin down. He asked how the Plan Commission could evaluate property valuation. He did not feel this has never been clearly defined and felt they just discuss it. Mr. Godlewski said realtors would have a good idea. He thought something would exist. Mr. Burbrink said things change over time.

12. See page 4, item #6 for the staff item with regard to the Planning Workshop.
13. Mr. Burbrink adjourned the meeting at 11:56 a.m.

Respectfully submitted,

Sandra Herrli, Recording Secretary

Jeff Burbrink, Chairman