

## **MINUTES**

### **ELKHART COUNTY PLAN COMMISSION MEETING**

**HELD ON THE 13<sup>TH</sup> DAY OF SEPTEMBER 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, and the following members were present: Tony Campanello, Doug Miller, Steve Warner, Steven Edwards, Roger Miller, Blake Doriot and Mike Yoder. Absent was board member 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. Prior to a motion on the minutes of the last regular meeting of the Elkhart County Advisory Plan Commission held on the 9th day of August 2012, Mr. Doriot indicated that a correction needed to be made with regard to *Jayco West Phase IV DPUD*, which is located on the West side of SR 13, 969 ft. South of Industrial Parkway in Middlebury Township.

Mr. Doriot explained that the minutes did not reflect the intent of his motion; therefore, he wanted to clear up the letter of findings from Ken Jones of Wightman Petrie, Inc., dated September 11, 2012, which is in the file for review.

Mr. Godlewski indicated that he had handed out a sheet with some cross-outs of what should be eliminated and what should remain, which he feels is self explanatory. He said it was basically removing anything to do with the stormwater conveyance or berming, and there were some redundancies in multiple items, which were missed.

According to Mr. Doriot, he intended that the berming was not to be done, and they did not believe the whole site needed to be regraded because the drainage had been functioning perfectly. Jayco will adhere to the standards at the south end of the property only with regard to the new building. Mr. Godlewski said that is correct and is spelled out in the Site Plan/Support Drawing.

Mr. Kolbus advised Mr. Doriot that he would need to amend the conditions attached to his motion, and then the minutes should be amended accordingly.

Ken Jones of Wightman Petrie, 4703 Chester Drive, Elkhart, was also present and he pointed out that they also talked about the variance from the County Highway standard.

Mr. Doriot moved that the owner will be required to have a Storm Water Prevention Plan, the location of the future access to be moved 300 ft. north or south of the residential drive located on CR 37, and that they would be granted relief from the highway standards of the additional dedication of right-of-way. Mr. Campanello seconded the motion. A roll call vote was taken and the motion carried with Mr. Burbrink abstaining as he did not attend the August meeting.

Mr. Yoder then moved to amend the minutes consistent with the previous motion, and approve the minutes of the regular meeting of the Elkhart County Advisory Plan Commission held on the 9<sup>th</sup> day of August 2012 as amended. Mr. Doriot seconded the motion, which carried with a unanimous vote.

Roger Miller recalled that the minutes of the July 12, 2012, meeting were not approved last month and Mrs. Wilson confirmed that the July minutes were not ready for approval in August.

Roger Miller moved to approve the minutes of the regular meeting of the Elkhart County Advisory Plan Commission held on the 12<sup>th</sup> day of July 2012 and Mr. Doriot seconded the motion. With a unanimous vote, the motion was carried.

3. A motion was made and seconded (*Doriot/R.Miller*) that the legal advertisements, having been published on the 1<sup>st</sup> day of September 2012 in the Goshen News and the 2<sup>nd</sup> 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 (*Warner/Doriot*) 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 North/South alley right-of-way, for **Dennis A. & Shirley L. Yoder** represented by B. Doriot & Associates, on property located on the North/South alley between Railroad Street and an East/West alley, West of Wabash Avenue, between Lots 15 & 16 of Lutz's Addition, in Olive Township, zoned R-1, was presented at this time.

*\*It is noted that Mr. Doriot stepped down from the Board for this public hearing.*

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #WABASH AVENUE-120806-1*. Mr. Mabry stated that if this Board approves this request for vacation it will go to the Wakarusa Town Council on October 2<sup>nd</sup>.

Charles Buzzard, B. Doriot & Associates, New Paris, represented the petition and informed the Plan Commission that the Wakarusa Town Council already gave them unanimous support for this project and stated they would approve it when it came before them.

Roger Miller asked if they had agreement on both sides to vacate this alley. Mr. Buzzard said he does. Mr. Miller thought the Board needed something in writing from both sides, however, Mr. Kolbus said nothing was needed in writing and as long as they got notice of the public hearing that would be acceptable. However, Mr. Kolbus felt that it would be helpful to have an agreement in writing and there are some jurisdictions that will not pass it if they do not have it, but this jurisdiction does not require it.

There was no remonstrance.

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

6. The application for a zone map change from R-2 and B-2 to a Detailed Planned Unit Development-B-2 to be known as **WAKESIDE MARINE DPUD**, for Daryle D. Schaeffer & Ella M. Schaeffer Revocable Trust, Ella M. Schaeffer, Trustee (owner) and Jeff Haradine d/b/a Wakeside Marine (buyer/developer) represented by Wightman Petrie, Inc., on property located on the West side of SR 19, 883 ft. North of Roseland Road, North of CR 4, in Osolo Township was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #51191SR 19-120806-1*.

Mr. Kanney displayed a GIS map in referencing the site and listed the conditions and changes to the plan that the Staff Report recommended. Roger Miller questioned Condition #7

concerning a 120 ft. setback from centerline of SR 19. He thought that requirement was for the new area only, but Mr. Kanney informed him that all structures along a State Road were required to be 120 ft. from the centerline.

Matt Schuster, Wightman Petrie, 4703 Chester Drive, Elkhart represented the petition and stated they are in agreement with every condition with the exception of numbers 5, 6, and 7.

Referencing Condition #5, Mr. Schuster displayed their proposed site plan and suggested an alternative to the 50 ft. strip along the northern boundary. He recommended that they provide a 50 ft. buffer adjoining the residential use. Mr. Schuster pointed out on their proposed site plan that the first parcel to the north was residential use and he requested no buffer along the vacant land owned by Cornerstone Baptist Church. He also suggested that language be added to the DPUD ordinance to state that if that residential property ever be developed into commercial property, that the 50 ft. easement be null and void. Mr. Schuster continued that on the buffer easement the owner would also like to request to reserve the option to replace the deciduous trees with a buffer of evergreen trees, in case they have issues with leaves in boats.

Mr. Schuster said that Condition #6 states that, no disturbance or discharge to any wetlands on the entire site be permitted without the Army Corps of Engineers and INDOT approval. He was not aware of INDOT issuing approvals for wetlands, because they do not have jurisdiction over wetlands. Therefore, he asked that the portion that states, "INDOT approval" be removed from that statement and replaced with "IDEM wetland" approval.

Mr. Schuster noted with Condition #7, currently the existing fence along all of the existing property to the south varies from 60 to 70 ft. from the centerline of the road, with 60 ft. more toward the curve to the south and 70 ft. on the northern portion of the site. Mr. Schuster asked that they be allowed to maintain the existing fence line. He commented that these current setbacks are the largest in the neighborhood and they would like to be able to maintain it.

Mr. Yoder asked if the fence currently was in the SR 19 right-of-way. Mr. Schuster did not think it was in the right-of-way, but it would be close. Mr. Doriot said when they did the reconstruction project on SR 19 they would have made the fences go to the right-of-way line. Roger Miller thought that 120 ft. would go to the front of the building.

Mr. Doriot questioned Staff whether the parcel owned by the church was still zoned R-1 and Mr. Kanney said yes.

Judy McKinley of 51230 SR 19, Elkhart, lives on the east side of SR 19 across from the marina. She does not have a problem with their business growing, but her concern is the storage to the north. Ms. McKinley stated that the company has a chain link fence, so from the residences point of view all they see is a lot of boats and trailers sitting on the property which does not look any different than a junkyard. She felt, however, it would not be good to use trees for a buffer, because the salt used on the roads in the winter would probably destroy them. Ms. McKinley requested that there be a condition added that requires them to put up a fence that blocks their outside storage. She felt that area was an eye sore.

Mr. Campanello asked how many years she lived at that address and she replied 59 years. She explained that originally the marina was on the other side of the street at the end of the lake. When they moved on the side the residences were on they did not have outside storage, but gradually they began to fill it with the boats. She said Wakeside Marine will be moving farther north into the residential area, so she felt it would be a courtesy for them to block the storage.

Kenneth Jones of Wightman Petrie, 4703 Chester Drive, Elkhart, stated that the owner/operator of Wakeside Marine was present and he appreciated the nearby landowner's concerns. He suggested that if the Plan Commission felt strongly about those concerns Wakeside

Marine would be open to the possibility of slatting the chain link to shield or screen the view of the outside storage. At the same time, there is a portion they would like to be open to display some of the products. Mr. Jones explained that the owner is willing to slat the chain link to provide a screening between them and the residents. Roger Miller asked where they would begin the slatting. Mr. Jones responded that they would begin slatting to the north or any area where there is just boat storage, but where there are boat sales they want to be able to display them and showcase a portion of the property to passersby.

Mr. Kolbus asked about a measurement estimate and Mr. Doriot asked if Mr. Jones could outline the storage area and display area. Mr. Jones revised the site plan by illustrating that area in red and he submitted the revised site plan to the Board *[attached to the file as Petitioner Exhibit #1]*. Mr. Yoder pointed out that the only place that would require a visual barrier is where the storage will be. He suggested they designate in the DPUD the area that would be used for storage to provide a visual barrier for the residential community and the rest keep open for display.

Mr. Yoder was comparing an entryway into the community, for instance, on the south side of Elkhart along SR 19 with the recycling business and he felt it turned out to be very nice. He did not think putting slats in the chain link would be attractive for the community or the business and asked if they could make an attractive visual buffer between their storage area and the community allowing some larger visual area for display to attract customers. He did not want to create something that would not look good. Mr. Campanello did not think they should push something like trees, but he felt they should stipulate the material.

Mr. Jones felt this may be a challenge and they need flexibility in case the company would ever need additional storage. He said the overall goal is to enhance the aesthetic quality of their business, which would likely include landscaping. Mr. Jones stated that if they did not know exactly where they were going to plant the shrub in two years, he was hesitant to put it on the drawing and would rather show proposed future plans and leave some flexibility for them to make decisions. He questioned having buffer along the entire length of the property when they do not know what the use will be yet. According to the GIS, part of the area is owned by a church, and if they would decide to build, the church could buffer that side themselves. He said it is odd to buffer something that is not there yet.

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

Mr. Doriot suggested that they could designate an area or add a statement that outside storage of boats have visual screening at or close to the right-of-way. He knew they would not want an unattractive facility because they are putting a lot of money into it and their customers would not want to shop if it was unattractive.

Mr. Doriot agreed with the 50 ft. use going away if the property becomes commercial to the north. Mr. Miller thought there may be a new subdivision to the north. Mr. Godlewski stated that the church property was approved for residential. Mr. Campanello thought access was going to be over a bridge and suggested that they keep the buffer and Roger Miller agreed.

Mr. Yoder said they requested some flexibility to go from deciduous trees to evergreens in that buffer. The Board all agreed there was no problem with that. He agreed it would be fine to remove the "INDOT approved" language. Also, they agreed to maintain the existing 60 or 70 ft. setback for the fence with 120 ft. for the structures.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Doug Miller*) that the Elkhart County Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance

with the Staff Analysis contingent on the adoption of the following conditions and changes to the site plan:

1. That the sales, service and storage of boats is the only use permitted by this DPUD.
2. That the site (old and new) be limited to three access points on SR 19. The driveway must be constructed to INDOT's commercial drive standards.
3. That any structure construction permitted by this DPUD connects and utilize Conservancy District sewer.
4. That a Rule 5 Erosion Control Plan for the entire site be submitted, approved and implemented prior to any soil disturbance.
5. That a 50 ft. strip along the northern boundary of the site be reserved and the vegetation protected as a buffer to mitigate the impact to the existing adjacent "R" zone. Evergreen trees are allowed as replacements for deciduous trees at applicant's discretion. If the northern adjoiner becomes a like or heavier use, the buffer will expire and will have to be approved as a minor change to the plan.
6. That no disturbance or discharge to any wetlands on the entire site be permitted without Army Corps of Engineers and appropriate state and federal agency approval.
7. That the building setback will remain 120 ft. from centerline of SR 19 with storage behind a continuation of the existing fence line (approximately 70 ft. from centerline), which may be maintained to the north.
8. That security lighting be strictly controlled and maintained to shine on site only.
9. That these conditions be specifically listed in the DPUD authorization ordinance signed by the Commissioners and superseding the Site Plan / Support Drawing. A corrected support plan to be submitted with request for Secondary approval.
10. All outdoor storage must take place behind a visual screen such as, but not limited to, a slatted chain link fence.

The motion was carried with a unanimous roll call vote.

7. The application for an amendment to a Site Plan / Support Drawing for an existing Detailed Planned Unit Development known as **CLAYRIDGE SQUARE FIFTH DPUD**, for JB Martin Properties, LLC (owner Lot 10) and LDM Real Estate, LLC (owner Lot 9) represented by Brads-Ko Engineering & Surveying, on property located on the Northwest corner of CR 42 and Clayridge Drive, 500 ft. West of SR 19, in Olive Township, zoned DPUD-M-1, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #28103CR 42-120806-1*.

Mr. Burrow stated that there was some splitting of the parcels that were never brought into compliance with the Detailed Planned Unit Development. Therefore, Lot 10 which comprises this parcel was sold off separately to another property owner. He explained that subsequently, the owner is trying to correct the Site Plan/Support Drawing to reflect the potential development they want to start as soon as possible. He said what they are proposing is to add a building and they have crossed a property line with retention. As part of accommodating the fact that this parcel right now is platted with a non-access easement and has no frontage, this property owner has agreed to establish a cross-access easement in order to facilitate future development by this property to be in compliance with the PUD.

Mr. Burrow asked the Plan Commission to approve this request as it is, basically, trying to address a problem that was created prior to the present owners securing ownership.

Barry Pharis with Brads-Ko Engineering and Surveying, 1009 S. 9<sup>th</sup> Street, Goshen, represented John and Lyle Martin, owners and developers of the revised and current Lots 9 and 10. In 2005 his firm represented both the seller of Clayridge and the purchaser and developer of Clayridge Square Fifth. At that time, that owner wanted Lot 9 to be zoned M-1 with a shop and Lot 10 to be the residence, so that Planned Unit Development addresses those issues. His previous client sold some of the property and told the purchaser they were buildable M-1 lots. Then John and Lyle Martin decided to relocate Southwest Laser to the shop building, obtained a Rule #5 and post construction plan approved by the County, and began the process of hiring a structural engineer to design a building and get ready to order the building. Then they came to this building to get their building permit and that is when the issues of legality came to the surface.

Today, Mr. Pharis would like to amend Clayridge Square Fifth DPUD to allow John and Lyle Martin to build an addition to the existing building. He said they have created retention, and a common driveway that they have enlarged and a parking area to serve both properties. They hired an attorney who has prepared a Cross Easement/Cross Maintenance Agreement so that both lots can share retention, parking and the driveway as well as the maintenance. If the entities were to ever change those agreements would still be in place. Mr. Pharis said that his clients are not associated or affiliated with the owner of this property, but they have approached that individual trying to find a way to assist them and he is adamant that he owns a buildable, legal M-1 lot in Elkhart County.

Mr. Pharis stated to make this work, because the original PUD had separate driveways for Lots 9 and 10, they combined the driveways. He explained that they abandoned one of the other driveways to make sure at some point in the future, if they could not control this particular property and that owner decides to come forward, an easement had been created across the front of the property so they could use the existing abandoned driveway to create access to their portion of Lot 10. He indicated that way they could keep that property as close to legal as possible.

Mr. Pharis commented that among all of that confusion they did receive a positive Staff recommendation and their immediate goal is to finish this building and let them increase their business. He mentioned that he had gone to the Wakarusa Town Council and they are in support of this project and have scheduled a special Town Council meeting for Tuesday night, September 17<sup>th</sup>. Mr. Pharis stated that if the Plan Commission approves this request today, they will approve it Tuesday night so they can still get the building constructed before winter. Mr. Pharis stated with this summary of their dilemma, his request is that the Plan Commission support the Staff report and forward it with a favorable recommendation to the Town of Wakarusa.

Roger Miller and Mr. Yoder agreed this is the best solution for this situation.

A motion was made and seconded (*Doriot/Roger Miller*) 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/Roger Miller*) that the Elkhart County Advisory Plan Commission recommend to the Town Council of Wakarusa that this request be approved in accordance with the Staff Analysis. With a unanimous roll call vote, the motion was carried.

8. The application for a zone map change from R-1/B-2/A-1 to M-1, for **Key Auctioneers**, Jeff Doner represented by Brads-Ko Engineering & Surveying, on property located on the Southwest corner of Walnut Street and Wabash Street, in Clinton Township was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #230WabashSt-120806-1*.

Barry Pharis, Brads-Ko Engineering and Surveying, 1009 S. 9<sup>th</sup> Street, Goshen, represented

Key Auctioneers, who are the court appointed receivers of Carriage, Inc. The efforts to market this property as one site have not been successful. He said steps are in process to enable it to be sold in multiple parcels. Brads-Ko was selected by Key Auctioneers to work with them to help determine what the status is and, initially, they found several parcels that were not zoned M-1. They also discovered there were two parcels that were not annexed into the Town of Millersburg. Mr. Pharis met with the Millersburg Town Council and they agree that the parcels should be rezoned and annexed, so today they are starting the process of rezoning to M-1. He is working with the Town Attorney for the process of the annexation. Mr. Pharis had a meeting at the Public Service Building with the Planning Staff, key members of the Town of Millersburg and his firm prior to the meeting with the Town Council and he believes they have addressed all interests of the concerned parties with regard to moving forward in a common path. He has a favorable Staff recommendation and asked the Plan Commission to forward the request to the Town Council, but it may have to go to the Commissioners and the Town Council, because part of the property is still in the county. He stated that they will be pursuing both rezoning and annexation.

A motion was made and seconded (*R. Miller/Campanello*) 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/Doug Miller*) that the Elkhart County Advisory Plan Commission recommend to the appropriate governmental body, be it the Elkhart County Commissioners, the Millersburg Town Council or both, that this request be approved in accordance with the Staff Analysis. With a unanimous roll call vote, the motion was carried

9. **Staff/Board Items**

➤ ***Remington Park DPUD-M-1, Section 4 – Minor Change Request – Duane Burrow***

Duane Burrow submitted an email from AMSAFE, 22937 Gallatin Way, Elkhart, along with his memo to the Plan Commission for a request for a Minor Change to the Site Plan / Support Drawing for Remington Park DPUD M-1 SECTION FOUR *[attached to file as Staff Exhibit #1]*. The company is located north of CR 6 and east off of CR 113, in Osolo Township. Mr. Burrow said they are proposing a 24 x 36 storage building. He said the issue is that the DPUD covenants and Redevelopment Commission were under the impression that all buildings would be created with a half wall wainscot. Mr. Burrow stated that this building was not built with that as indicated by the photo from Google earth. He said their reasoning was it is an expansion wall and they did not want to make that kind of investment in that kind of addition. Mr. Burrow felt the only issue was that most buildings in Remington Park were built with wainscot or a textured half, concrete half wall. Just west of AMSAFE was the first building that went into Remington Park and those buildings were built with those standards. The action from the Plan Commission would be whether or not this to be a minor change. He said if it is considered a minor change they could be issued the necessary permits. Mr. Burrow just wanted to state so they understand we are not rescinding any of the existing covenants.

Mr. Campanello said if this is an expandable end wall on this building and they have covenants, it may state that any expansion from that wall would require wainscot. Mr. Burrow clarified that the covenants do state that all walls will have wainscot. Mr. Campanello asked if it was required on new buildings only, but Mr. Burrow said it is on any building and it doesn't define the concept of an expansion wall. He said they did not address that issue, but it has come up before. Mr. Doriot asked if Wagner originally built this factory and Mr. Burrow said they did and they still own it. Mr. Burrow said if the Plan Commission decides it is a major change then it would have to

go through a public hearing for a modification to the site plan. Mr. Yoder wanted to clarify that this was the only wall on the building that does not have the wainscot and it is the wall that faces the toll road, not the interior of the park. Mr. Burrow said that was the case and the objective of Remington

Park was to create a higher standard of aesthetics on the building walls and more specifically on the walls adjacent to the Toll Road 80/90.

Mr. Campanello said if the Plan Commission allowed it, the neighbors will come before the Board and state that it was allowed for this situation, and they will want to put up a building without the wainscoting on it. Mr. Burrow did not know how complicated it would be to convert a wall on an existing building from having a half textured cement wall and then expanding a building from that wall. He reiterated that the wainscoting was supposed to be textured concrete. Mr. Campanello thought they could do it with cheaper material than concrete. He explained that textured concrete can now be put on a Styrofoam, sandwiched metal panel that is either 2, 4 or 6 inches styrene in place and they could go around with that up to the height they need to go. Mr. Burrow stated that the standards that were established in Remington Park were a precursor to the E-1, E-2, and E-3 zones which are the higher development standards of industrial parks. He said Remington Park was the prototype. Mr. Doriot suggested they could go as far as the exterior wall to require the wainscot and not require it on the expansion wall. Mr. Yoder stated from what he heard there is a reasonable alternative to pouring the concrete textured wall and it would maintain the appearance.

Roger Miller was in favor of keeping the standards that Wagner Development set themselves. Mr. Doriot thought they were looking at about 500 sq. ft. of wainscoting at around \$4, so they would be looking at around \$2,000 if they use the panels Mr. Campanello suggested. Mr. Campanello reiterated that the material is sprayed on to a steel panel. Mr. Burrow said they did not go into much detail, other than the fact that it had to be a textured concrete half wall.

Roger Miller made a motion to deny the request. Doug Miller seconded the motion. Mr. Burrow clarified that essentially, the Plan Commission considers the request to be a major change. Mr. Campanello confirmed that it would go to a public hearing and Mr. Burrow agreed if they wish to continue without the wainscot. He said they would have to bring a site plan to the Plan Commission showing the installation of the wainscot and the accessory addition. The motion carried unanimously.

➤ ***Kevin Martin, Martin Animal Bedding*** – Request to redocket a new application due to substantial change or circumstances – Duane Burrow

Mr. Burrow said the Rules of Procedure were written to state that if the Plan Commission denies a request it would be a year before they could return, but it has to be a substantial change to be reconsidered and the decision has to be made by the Plan Commission. He stated that this petition was unique because it had been given approval by the Plan Commission, but the Commissioners denied it and the Rules of Procedure do require that the petition be heard 12 months from that period. The issue is whether or not what they are proposing is going to be significantly different than what was originally proposed. Mr. Burrow said the issue was that the Plan Commission did not realize that it was extended to the County Commissioners decision as well as the Plan Commission. He clarified the decision at hand is whether or not this is a substantial change in order for the Plan Commission to redocket it for a public hearing.

Barry Pharis of Brads-Ko, 1009 S. 9<sup>th</sup> Street, Goshen, represents Martin Animal Bedding and Kevin Martin was in attendance today. Earlier this year he made a presentation to the Plan Commission to relocate his grinding business for animal bedding from SR 119 and CR 36 to



property that his family owns on CR 17.

The Martin family has the only two curb cuts on CR 17 between CR 38 and CR 40. There is a residence on the property and some commercial type existing buildings that were used for storage of trucks, etc. The driveway was relocated from the residence out to the new proposed driveway so that when and if the time came, there would be just one curb cut on CR 17. The Plan Commission sent the petition forward with a unanimous vote in favor, but when he got to the Commissioners it was denied two to one. Mr. Pharis said afterwards he started asking why the two Commissioners were against it. One of the Commissioners was most adamant if, in fact, some point in the future CR 17 is widened to four lanes he did not want the County to spend millions of dollars relocating their business like they did Linton's. Mr. Pharis went back and talked to the owner, who is a relative of Kevin Martin that owns a farm east and adjacent to this property, and they obtained a 50 ft. easement that goes from Kevin Martin's property up to CR 38. He said they amended their drawing and their narrative report to state, "if in fact, at any point in the future Elkhart County decides that they want to expand this road and relocate that driveway Kevin Martin will abandon the CR 17 driveway and construct a driveway to CR 38".

Mr. Pharis said there is also a buy/sell agreement between Kevin Martin and his cousin, that if that comes to pass he will buy that strip and build the road. Mr. Pharis believes this is a significant change in light of the fact that this was the main reason two of the Commissioners voted against the plan. He asked that this request be sent forward as a redocket. He said they would come back in October and there would be a public hearing, readvertised, they will make their presentation and all the neighbors will have their opportunity to make a presentation to the Board. Mr. Pharis stated that the caveat to this redocket request is that the Plan Commission has to give a unanimous decision.

Mr. Doriot asked how far off the road the structures are. Mr. Yoder thought they were moving the site, but Mr. Pharis said they are not. He explained that they had planned on moving it back because there were trees about 400 ft. north and south by 600 ft. east and west that are over 100 ft. tall. He said in terms of fugitive dust it is phenomenal and so they were going to shift the building back, but then the septic system is in the back and they learned that they could not shift it. Mr. Pharis said they were going to leap frog and move into the acreage, but when they did the topographic survey of the acreage, they discovered it rises 20 ft. The advantage of being here at 20 ft. below CR 17 moved them into the trees where they would have to clear cut the very natural item that was blocking the potential fugitive dust and then be up high, so they cannot feasibly move into that 15 acres.

Mr. Pharis asked the Plan Commission to give approval to redocket the petition so they can start the process over with a new set of public hearings. Mr. Doriot said he had no doubt that a new potential access is a major change. Mr. Burbrink mentioned that this is not a public hearing so no public comment is required.

Mr. Doriot made a motion that the presenter has proven to the Plan Commission that the addition of a potential new outlet and ownership of that outlet if the property is to sell from the current owner, is a major change. Doug Miller seconded the motion. The motion carried with a unanimous roll call vote.

➤ ***Zoning Ordinance Discussion – Chris Godlewski***

Chris Godlewski followed up from the September 5<sup>th</sup> Policy Committee meeting and had sent all information to the Plan Commission Board members with a proposed agenda for next month, the minutes of the meeting, a map of the overlay areas, and functional costs of development

in unincorporated areas. He said next month they will go over the residential and agricultural districts, the wellhead protection district overlay, and the remaining three standards.

He said one of the requests for the October 3<sup>rd</sup> meeting will be to have Mike Yoder discuss residential and agricultural issues and Ken Jones will bring back some information about the wellhead protection district.

Mr. Kolbus commented that the discussion was good from both sides. There was discussion both in terms of compromise and other ideas. He said if they did not think something would work, they tried to offer ideas in a variety of ways to accomplish their goal. He felt it was one of the better discussions they had.

Doug Miller agreed it was a good meeting, but one thing he wanted to stay focused on was that it is important to start baseline discussion at the existing ordinance and get the feedback from everyone involved. For instance, how the existing ordinance is working, if it needs to be changed, etc. He commented there was a lot of discussion starting on Draft E, but he did not think that is where they need to start. He thought they need to look at what the existing ordinance says and compare that, but he said they were going down the right direction.

Mr. Godlewski said when they draft the regulations and review it in detail it will be based off of the existing ordinance and not the proposed ordinance. Doug Miller said his statement was based on an observation and he just wanted to be sure to honor the commitment that they made and look at the existing ordinance all of the time.

Mr. Burbrink asked if the Board thought the right mix of people were on the committee. Doug Miller reiterated he felt they had a great discussion and there were well rounded point of views and good feedback. He said the discussion was very frank which is good and they are talking about how they use the ordinance and that is the most important part of the discussion.

Mr. Warner stated they had discussed in the past a communication plan for making them aware of the proposals for the ordinance. He asked if there would be direction from the Policy Committee on developing a communication plan. Mr. Godlewski said that suggestions from the Policy Committee can help, but he felt the Chamber of Commerce is a neutral place and they could provide information for them. Mr. Kolbus thought polling the Policy Committee would be satisfactory because of the wide variety of members they would have some ideas for getting the information out. Mr. Warner thought not reaching out to the community was one of the failings in the past. Mr. Kolbus felt some of the people on the committee would be a good source of information.

Mr. Doriot wanted to be sure it is realized that this zoning ordinance does affect municipalities, but it is a county zoning ordinance, so if going to the City of Goshen or Elkhart Chamber of Commerce the information needs to get to the people that own the property and live there. Mr. Godlewski thought the timing would be toward the end when the proposed ordinance is written and not so much at the beginning when gathering the information.

Mr. Godlewski said after a phone call and an email Brad Johnson of Ground Rules did call back and he thought if Elkhart County was going to have service with them it will only be for information entered in his format and the convenience to use some of the information he already presented. Mr. Johnson said he would present a contract along with the cost so Mr. Godlewski can go ahead with it. If they decide to stay with Ground Rules for the template there will be an additional cost and the County Council will have to make that appropriation. Mr. Godlewski thought the cost would be less than \$10,000 for Mr. Johnson to insert the County's information into the template. Mr. Doriot asked about our own template. Mr. Godlewski said that Elkhart County

needed some original resource to use formatting, review, processing, etc.

Mr. Yoder remembered from the first attempt with the ordinance that it has to meet certain state statutes and he questioned who does that review. He stated that was one of the services Ground Rules offered. Mr. Kolbus clarified that they were not saying what was wrong with it, they tried to be certain what they did produce was compliant with state law, but he thought that was one of the areas of disagreement with them. Mr. Doriot said Elkhart County's current ordinance is compliant. Mr. Campanello did not think they would need to hire someone to do something that could be done in-house. Mr. Yoder said whether it could be done in-house would depend upon the extent of the changes they submit. Mr. Kolbus said he could do the legal review in-house; however, the formatting copyrighted with the colored codes is what needs to be formatted and also the hyperlink system. Mr. Yoder said he would like it to be user friendly and as accessible to the public as possible. He felt if the County had to pay \$7,000 they would go along with that. Mr. Yoder thought they should evaluate it when they know what the cost is.

The next meeting will be held October 3, 2012 at 9:00 am.

10. Jeff Burbrink adjourned the meeting with a unanimous vote at 10:34.

Respectfully submitted,

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Sandra Herrli, Recording Secretary

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Jeff Burbrink, Chairman