

MINUTES

ELKHART COUNTY PLAN COMMISSION MEETING

HELD ON THE 13TH DAY OF JUNE 2013 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, Jeff Burbrink, Steve Warner, Blake Doriot, Roger Miller, Tom Stump and Frank Lucchese. Steve Edwards and Doug Miller were absent. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Mark Kanney, Planner; Duane Burrow, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Doriot/Lucchese*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 11th day of April 2013 and the 9th day of May 2013, be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Warner/Doriot*) that the legal advertisements, having been published on the 1st day of June 2013 in the Goshen News and on the 3rd day of June 2013 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/Stump*) 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 an Amendment to a Site Plan / Support Drawing for Lot 3 of **A & R MACHINE SHOP DPUD**, for Wilbur L. & Nora Sue Miller and A & R Machine Shop represented by NuWay Construction, on property located on the North side of CR 20, 3,684 ft. West of CR 35, common address of 14719 CR 20 in Middlebury Township, zoned DPUD-M-2, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #14719CR 20-130506-1*. Mr. Kanney indicated that the site plan shows the 80 ft. x 100 ft. building to be utilized for powder coating purposes.

Andy Nesbitt, NuWay Construction, 2119 Carmen Court, Goshen, submitted the site plan with the application, but it was not very clear, so he submitted a site plan to the Board with the topographical survey completed [*attached to file as Petitioner Exhibit #1*]. He stated that besides the 80 ft. x 100 ft. free standing building, on the adjacent property there is a drainage easement which is where they are going to put the retention. When this building was constructed back in 2000 or 2001 the retention was never put in, so they will put it in to service the drainage for this half of the property, because there is existing retention for the other half.

Mr. Doriot asked Staff if they were changing any platting lines. Mr. Kanney said they were not.

There were no remonstrators present.

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

Mr. Burbrink asked if this would require any additional parking or new employees. Mr. Kanney informed him that the site was really designed for 50 employees, but they have not reached that level yet.

Mr. Warner mentioned that he has seen that these businesses start small, but can grow to be a large business, but he agreed they have not surpassed their 50 employee limit. Mr. Doriot felt this is unique and they serve this area very well.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an Amendment to a Site Plan / Support Drawing for Lot 3 be approved in accordance with the Staff Analysis with the terms of PC 01-16 to remain in effect.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

6. The application for a zone map change from A-1 to a Detailed Planned Unit Development-A-1 to be known as **HUSS RESIDENTIAL DPUD**, for Don & Beth Huss represented by Jones Petrie Rafinski, on property located on the South end of Wilray Drive, 1,000 ft. South of Melwood Drive, 400 ft. West of SR 19 in Baugo Township, zoned A-1, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #WILRAY DRIVE-130506-1*.

Mr. Doriot asked if there was a plat on this road. Mr. Kanney said he could not find a plat on it and he could not find how the roads got built. He thought Brad Cramer had worked on this.

Peter Schnaars, JPR, 4703 Chester Dr., Elkhart is representing the owner, Mr. and Mrs. Huss for this development. He thought the Board was thinking of Brad Cramer who had done the boundary on this property. He believed it came across their desk around 20 years ago. Mr. Doriot agreed that he recalled he saw something in the past.

Mr. Schnaars said they worked with Staff closely to make provisions to gain their approval for this petition and they agree with Mr. Kanney's last comment. He said they have a note on the plat that further subdivision of lot 3 would require approval by Elkhart County and they also have notes in the easement agreement ensuring that the City and the County are not responsible for maintaining or plowing these roads in accordance with what the County requires for such agreements.

There were no remonstrators present.

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:

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Frank Lucchese, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to a Detailed Planned Unit Development-A-1, including the subdivision of three residential lots on private streets, be approved in accordance with the Staff Analysis.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

7. *Zoning Ordinance Review – Chris Godlewski/Brian Mabry*

Mr. Godlewski said he had emailed some information to the Board members and reminded them that the next Policy Committee meeting will be June 26th. He appreciated that Jeff Burbrink and Blake Doriot have been attending these meetings. He said they will review Article 5 again and will go into the Use Tables a little further and they are looking for comments from the Policy Committee on that. Mr. Godlewski stated that they will go through Module 2, the Executive Summary, which highlighted the ten most debated concepts.

Mr. Doriot asked if they would be getting agriculture on the table also. Mr. Godlewski confirmed they would and told him that part of Article 5 has all the districts, and that eventually agricultural will be part of Article 5.

Mr. Burbrink felt the Policy Committee has been working through the Ordinance diligently. He did not think it was an easy job and appreciated their time and effort. Mr. Doriot agreed that there is a lot of discussion, discourse, and compromise involved.

Mr. Mabry pointed out that the first page of the Executive Summary provides six high points of Module 2, which is Articles 4 and 5 of the draft. The second page has questions or points of discussion that the Policy Committee and/or Technical Committee wanted to review.

One of the additions to the draft on the first page will be the Zoning District Purpose Statements, which are standard in most zoning ordinances. He said ‘E-1’, ‘E-2’, and ‘E-3’ do have purpose statements, but the zoning districts adopted early on ‘A-1’, ‘B-2’, ‘B-3’ do not have purpose statements, so the purpose statements are now there for those zoning districts. Mr. Mabry explained Purpose Statements are like mini Mission Statements for those zoning districts to be taken into consideration when a rezoning is being requested.

Residential Developmental Standards can be complex, but they are trying to make land use requests ‘by right’ rather than by DPUD. These standards are attempting to allow for conventional and cluster style subdivisions ‘by right’ rather than going through the DPUD process. This also will allow different types of single family dwellings that would normally have required a DPUD. He wanted to work those into the standards so that they can be done ‘by right’ with just platting rather than the DPUD process in order to provide a quicker timeline for getting a project going.

Mr. Mabry said they met with two surveyors yesterday on the draft standards for these housing types and will continue to work them. He thought it may be a slow uptake before these options are used by developers, but he wants them to be realistic and usable.

Use Table & Use Categories - They are in the existing ordinance lists of uses for each zoning district. In this draft there is a Use Table that shows what uses are allowed in each of the zoning districts in a table form. Mr. Mabry noted that Mr. Godlewski had mentioned that they will be adding A-1, the standard agricultural district, to that table. He said they distributed the table to members of the Policy Committee for them to indicate what appropriate permitted uses and special permit uses will be in the A-1 district. That information has been distributed to them for the next meeting.

Use Categories will be grouping together similar uses so that they are treated similarly throughout the zoning ordinance. Looking at some ordinances, in one district a hotel is allowed, and another district only a motel is allowed, and in another district both hotels and motels, so when similar terms were mixed they ended up inadvertently treating these similar uses differently when

that wasn't really the intent. The intent is to consolidate several uses into categories and treat them similarly.

Specific Use Standards are already used such as kennels in which a kennel is allowed 'by right', but certain limitations must be met related to the size of the lot or the setbacks of the buildings on the property that the kennel is on. This item allows some uses to go from a special use permit to being allowed 'by right' subject to limitations. There are several uses in the draft that go from a special use in our current ordinance to being allowed 'by right' subject to limitations. Another example is churches. In the draft churches are allowed 'by right' in certain districts without any limitation on size, but we currently require a special use for a church in any zoning district. However, in the draft B-1, B-2, B-3, and M-1 is a 'by right' use for a church. A special use is retained in residential districts for a church. Mr. Burbrink clarified that the idea is to cut down on the number of people that have to go to the Board for approval. Mr. Mabry concurred that is true. He said if you build in standards in the zoning ordinance more things can happen with Staff approval rather than going to the Board for discretionary style approval.

Accessory Uses and Structures will have a lot of changes. The biggest change will be allowing accessory dwelling units subject to limitations. Mr. Mabry stated this would address dawdy houses in the agricultural district and any other type of accessory dwelling, whether it was an Amish property owner or not, that subject to certain standards right now, they have to have a Use Variance which has to be approved by the BZA and is the most difficult request to justify. This will allow based on lot size, the size of the actual dawdy house or accessory dwelling unit, based on sharing the driveway with the main house, etc. He believed this has been requested many times, so they are trying to accomplish this.

Roger Miller asked if this is an area where someone would want to put a mobile home beside their house. Mr. Mabry stated that would still require a Special Use permit. He clarified that they have the dawdy house standards written so that it has to be a true structure.

Mr. Mabry informed them that the home workshop/business standards are a little in flux from the last Policy Committee discussion about whether to raise the number of outside employees to three rather than the existing two. He said, in the draft, they did have an increase from zero outside employees to one for home occupation.

Temporary Uses require a temporary use permit process in Article 3 and then in Article 5 there are the standards that would go along with that. This would be related to providing trash clean up, setting a time limit on structures that are placed and proposed to be temporary, but then a lot of times we have seen they will become permanent without the proper parking or whatever may be needed for a permanent structure, so this permit will take place to try to avoid that issue. The temporary use permit is also still in flux until they determine how it will be addressed.

Mr. Mabry said the next step after the June 26th meeting will include merging the two modules together, Articles 1-5, for review. One draft will have all of the editing marks and another version will be a clean copy. The drafts will be distributed to the Policy Committee and Technical Committee for their comments.

Roger Miller asked if each of the Temporary Uses would be defined explaining what the uses will be in that circumstance. Mr. Mabry explained that they are generally described as what constitutes a temporary use and there are also some specific standards for temporary uses. One example in the draft is a temporary concrete batch plant.

Mr. Mabry commented that he agreed the Policy Committee and Technical Committee are doing great work. He appreciates the time and effort that everyone put into it.

Mr. Godlewski informed the Board that the Commissioners had a 1-1 decision for the petition from MorRyde, so the effective decision rests upon the Plan Commission. The Plan Commission had voted in favor of the petition; therefore, the effective date will be 90 days after the certification. He thought it would be sometime in July.

Mr. Warner pointed out that Mr. Burbrink brought to his attention that there was some information after the fact that the Plan Commission should have been aware of. Mr. Doriot said he looked through the information they had at the Staff meeting, including the old Remington Park PUD. He said it was not as restrictive as he was led to believe. He heard there was information that was brought forward at the Commissioners meeting to do with property assessment that the remonstrators had done. Mr. Doriot thought that had the remonstrators presented the property assessment information to the Plan Commission it may not have passed; however, it is not the Staff's duty to check into that. Mr. Warner said it would have made a difference to him. Mr. Godlewski believed that for the time allowed the Staff in preparing the application and notices we do enough research to get an understanding of the property and the history of the property and the surrounding area. Mr. Warner suggested that in the future the Plan Commission may want to ask for any additional information.

Mr. Kolbus said they always have the right to ask for additional information from the Staff and they can Table the hearing if they choose to. The Plan Commission directs the Staff as to what information would be required and the type of petition. Mr. Doriot asked if that could go as far as the hiring a certified appraiser. Mr. Kolbus did not think they should go that far. He recalled that was one of the things brought up for the Remington Park petition, so that information would be in the minutes and they highlighted comments from that hearing. Mr. Kolbus said that he read those minutes and there were comments by the petitioner's representative, for example, a certain point would be that the line and development would not go east. There was nothing mentioned about putting it down as a condition or restriction, so some of that has to be taken with a grain of salt. Mr. Kolbus reiterated that would be an example if the boundary was brought up. Mr. Doriot thought when they receive their packets they need to be a little more vigilant and go through the packets more thoroughly, so that if there is a similar situation perhaps they should look at the petition that had been similar to see how things were handled. *(See Page 6, Item #10 for further discussion on this Staff item.)*

8. The application for a zone map change from M-1 PUD to B-3 for ***Interra Credit Union and Roger H. & Nathalie M. Schrock***, on property located on the Northwest corner of SR 19 and Nelson's Parkway, common address of 66685 SR 19 in Olive Township, zoned M-1 PUD, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #66685 SR 19-130422-1*.

Mr. Doriot asked if the existing tower would be allowed in a B-3 zone. Mr. Burrow said it is allowed and the County Zoning Ordinance does not have any standards for towers. He said towers are a Special Use and the standards for towers are based on a policy that was adopted by the Board of Zoning Appeals and the Commissioners.

Dave Myers, Myers Trust Real Estate, 2809 Ferndale Road, Elkhart, represented Roger and Natalie Schrock and Interra Credit Union. He has the property for sale on the corner and he came in

to see what they could do with the property with the present zoning. Mr. Myers said he was informed that nothing could be done because the zoning did not allow for what they wanted to do. He noticed that the zoning of the Interra property did not match what they were doing either; therefore, they are requesting this rezoning to bring the property into compliance. Mr. Myers said he also met with the Town of Wakarusa and they gave him a letter stating they are in favor of the rezoning, which is in the file for review.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Wakarusa Town Council that this request for a zone map change from M-1 PUD to B-3 be approved as presented and in accordance with the Staff Analysis.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump, Tony Campanello

9. The application for a zone map change from B-1 to B-3 for *W. Joel Nichols, Trustee of W. Joel Nichols Trust*, on property located on the Southeast corner of CR 6 and CR 11, being Lot 9 of Berry's Sub., common address of 24996 CR 6 in Osolo Township, zoned B-1, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #24996CR 6-130506-1*.

Mr. Mabry reported that the petitioner has requested that the petition be withdrawn at this time.

Motion: Action: Withdrawn **Moved by** Blake Doriot, **Seconded by** Frank Lucchese, that the Advisory Plan Commission accept the withdrawal of this request for a zone map change from B-1 to B-3.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump, Tony Campanello.

STAFF/BOARD ITEMS

10. *Continuation of Zoning Ordinance Review – Chris Godlewski/Brian Mabry (See Page 3, Item #7, for previous discussion on this Staff item.)*

Brian Mabry continued with his earlier discussion of the Module 2 Executive Summary. The second page consists of five issues that the other committees have been discussing for which they could not come to a consensus.

The first issue concerned how to measure a front setback and whether it should be from the right-of-way, the centerline of the traveled paved path, or the centerline of the right-of-way. He said sometimes it is both the property line and the right-of-way line or just the centerline of the right-of-way line. He stated that the existing practice in the 'E' districts is to measure front setbacks from the right-of-way line property line. For all of the other districts the existing rule is to measure to the centerline of the right-of-way. The most important question is which one works best. Mr. Mabry asked for the Plan Commission's thoughts on this. Mr. Mabry stated that the centerline of the right-

of-way is basically in place now and the advantage is that people can see on the ground the general vicinity of a centerline. The property line is different, because a lot of people think they own up to the curb or the edge of the pavement, so that can be deceptive.

Mr. Doriot agreed the front setback is a big moving target, because he can go to CR 31 west of his residence and the centerline of the right-of-way should be close to the section line, but the section line is actually about 15 ft. west of the pavement in some areas, so it is questionable whether some people have access to the road. Mr. Doriot said another moving target they found is that himself, several other surveyors and developers, have been using the setback line to the foundation, but he learned that the Staff was using the setback line to the eave, so there are thousands of houses out in the County that would really be in violation of what the interpretation of the setback is.

Mr. Campanello stated that they cannot establish a setback until the foundation is in and that is the very first thing you do. Therefore, Mr. Campanello felt it should be going to the foundation. Mr. Doriot said that is the way the industry has been doing it, but then the Staff brought up some issues if they would put a six foot awning on it and that was another moving target. Mr. Doriot said he thought about it and in platted subdivisions it should be from the right-of-way line, but in the rural area he does not know. Mr. Campanello thought it should be whatever gives the property owner as much capability of using their property as can be and that is to centerline of the road. Mr. Doriot stated, case in point, is there are actually spots if you setback from centerline of the road, technically, they are not even on their own property. Mr. Lucchese said he built a garage in his neighborhood and his road was shifted, so he had to get a variance because that made the garage too close. Mr. Doriot explained that some property lines are off enough that they would not be on their described property.

Mr. Mabry pointed out that they were discussing the first two items about where to measure the setback from and to what point of the building to measure to. He said the draft does have some allowances built in to allow projections of certain things into required setbacks, like eaves or bay windows in order to encourage visual interest.

Mr. Godlewski said yesterday when they were discussing side yard setbacks and how to measure in a '0' lot line they would not want to measure to the foundation, because the eave would hang over. However, if you are looking at a traditional dwelling that is in the middle of a lot it is a lot easier to measure from the foundation, but what that means is there would be two different standards of measurement for a setback. He said very crude drawings from the public are submitted for permits and that could complicate things quite a bit. Mr. Kolbus mentioned the purpose for the side yard setbacks is to allow for emergency vehicle access, so if the eave is hanging over they may not be able to access their emergency vehicles as well. Mr. Doriot said there are thousands of homes measured to the foundation. That is how Doug Miller and Tim Miller measure and that is what Mr. Doriot stakes for his plans.

Mr. Burbrink agreed it is a very interesting discussion, because they could come up with an exception or reason for every single way to do it. There are good things and bad things about both. No matter what they do it will cause someone to be off the rule. Mr. Doriot explained that anything before the date of the Ordinance will have to be allowed.

Mr. Kolbus asked what is best way to do it. Mr. Doriot felt that in platted subdivisions it is probably easy to have setbacks from the property line from the right-of-way, but in the rural zones he does not know. Mr. Mabry believed that the complicated thing about that could be to have a setback for each district for platted vs. unplatted. Mr. Doriot thought there may be a point where the Planner would need to make that decision.

Mr. Warner thought the most easily determined should be used and that would be the highway centerline, but he noticed that Mr. Doriot comes back and says it is not the easiest to determine. Mr. Godlewski said there are so many different scenarios when trying to apply one rule, so it seems they would have to just pick 'a rule' and make it work the best way possible, which is how we do it now.

Mr. Doriot felt if it is decided to have one rule they need to let Staff have the right to grant a variance to that. He understands there is a 10% rule, but there may be other circumstances. Mr. Kolbus noted that they also use the average of the neighboring properties. Roger Miller asked if someone had their eave over the line and the property owner took someone to court over that, would the Staff's approval be acceptable. Mr. Doriot said if it is written in our Ordinance it would be; however, not if it is over the line, but if it could be over the setback. Mr. Kolbus informed them that they cannot go over the line, and it does not matter what the Ordinance says under that circumstance. Mr. Doriot agreed they could not go over the property line, but they could go over the setback line.

Someone from the audience said he had property off of US 33 and he thought whether the setback would be from the centerline of the road or his property line would make a big difference in what he could do on that property. He thought it would impact a lot of properties adversely if they move it back to the right-of-way line vs. the centerline. Mr. Doriot said he did not think they would increase it and he thought it would be less from the right-of-way.

Mr. Burrow commented that the present Ordinance says 120 ft. from centerline or 80 ft. from the property line on some streets. Mr. Campanello asked if they went with just the centerline and then in a rural area Staff could be allowed to determine the setback and verify it with a planner. Mr. Kolbus asked about applying that throughout the County instead of on certain roads. He clarified, having the centerline or right-of-way whichever would allow the most use of the property. Mr. Doriot stated that there are a large percentage of county roads in which there is no right-of-way, and the court has held it as the traveled way, because it was never properly laid out. On one of these occasions it saved the County a few millions of dollars in a law suit with a tree that fell on a car, because that section had never been laid out. They may have been assuming that it is 40 ft., but it is actually just the traveled way. They decided to move on with this item, and Mr. Doriot planned to sit down with the Committee and bring in someone from the Highway Department. Mr. Kolbus asked the Staff if there were any Planning & Zoning blogs that they could get on and ask about how they deal with the situations where the setback is from the centerline of the right-of-way, but it does not match with what has actually been constructed. He suggested they may get some ideas on how they may handle that situation.

Mr. Warner thought Mr. Kolbus' suggestion would be good, but he wanted to go back to the centerline issue and thought the most common should be the centerline. Mr. Doriot replied that the vast percentage of the highway is laid fairly evenly, but there are roads like CR 31 between CR 50 and CR 52 where the angling roads are pretty much centerline. He agreed a lot of the descriptions go to the centerline, but when a county road is not laid on a section line they assume it is the center of the traveled way of the road.

Mr. Mabry suggested that with the second row of the table as far as the nearest projection vs. nearest part of the foundation, they could see what other counties do. He believed the foundation was what the Plan Commission preferred. Mr. Campanello pointed out that, however, a box bay window would protrude out further. Mr. Mabry stated that they have an allowance for that in the draft; for instance, chimney exteriors can protrude. Mr. Lucchese stated that the foundation is

the easiest choice, because it is the most consistent.

The third item on the second page of Module 2, Executive Summary is Optional Housing Types. Mr. Mabry thought this section might be a little more technical. They are proposing smaller lot sizes for unusual housing types; for instance, a '0' lot line dwelling on one side of the lot with a larger side yard on the other side for a traditional dwelling or, he may change it to a cottage style that is a small dwelling with a front porch and rear alley access. The other option would be for single family attached, similar to a duplex with two dwellings, but separate ownership and a lot line drawn down the middle. In order to incentivize these different building types, because they are optional, they are connected to smaller lot sizes. To be able to have a smaller lot they would need public wastewater access via public sewer lines or there has to be something different done with the septic system, because there will be a 13,000 or 15,000 sq. ft. lot to accommodate a reserve area and a septic area.

Mr. Mabry said there was a lot of discussion with the two groups on how to handle this. Bill Hartsuff with the Health Department is going to be at the next Policy Committee meeting to answer questions and offer his thoughts on this. Mr. Mabry thought the biggest concern was if there was to be a common community system, or cluster system which would go along with a cluster development. They would need to discuss maintenance of the system and the fear of it failing. This is something the group will need to figure out how to handle.

Mr. Stump pointed out that in Michigan and Minnesota they have a lot of these systems in which the subdivisions share the same septic system and it is written into their bylaws or they all have to join this group. He said the maintenance is taken care of and a bill is sent out with the property tax. He said they are way ahead of Indiana when it comes to group septic systems, because they have a lot of lakes with no good soil for septic systems. He said they have to end up piping it and it is well organized in those states.

Mr. Doriot did not think they were in collective subdivisions, but they use associations. Mr. Stump was concerned that there may be a problem with people not paying, so if the charges are included with their tax that would not happen. However, he wondered if that would have to be approved by the State, however, that is how they handle it in those states because that way people pay for it. Mr. Kolbus thought that sounded very organized, so the State may have put some provision in which allows for the maintenance to be taxed. Mr. Doriot thought there may be resistance from the Auditor and the Treasurer, because there was resistance with the stormwater. The Auditor or Treasurer did not have an area for it on their forms, and they do not want to change their forms, so it would be something that would have to be worked out.

Mr. Burbrink did not want the Planning Department to stand in the way of innovation in terms of dealing with this. He believed that there will be new alternatives coming out that Elkhart County needs to learn to subscribe to or try and test. Mr. Campanello did not think the Health Department would agree with having a cluster type system. Mr. Stump thought in the past, Rick Pharis had designed a cluster subdivision. Mr. Campanello recalled that subdivision was to the south of Pine Crest Subdivision and Mr. Doriot also remembered that. Mr. Campanello said he lives in the Pine Crest Subdivision and their residents did not want that type of subdivision in that area. He thought Karington Kove may be that type of subdivision and Mr. Doriot said Pheasant Ridge is not a cluster system, but their septic systems are individually owned on easements off their property where they pipe it down 600 ft. to adequate soil for septic systems.

Mr. Godlewski believed cluster subdivisions could be related to a sewer treatment plant. The current usage of it has to be paid, but they would also have to pay for the replacement of it. He

believed when people put septic in, if it was a cluster system, they probably would never account for the replacement of it, but they do have a life to consider. The system may last 20 years, but what would they do after 20 years. Mr. Stump said if they are maintained properly they can last a long time. Mr. Doriot stated that with the aerobic digesters now that cost \$3,000 to \$4,000, they can last even longer. He talked to one individual whose mound was in failure, so they put an aerobic digester on it and within six months his mound was functioning properly and all of the bio mass that grows and causes it to fail was leaving.

Mr. Mabry said the draft right now requires those optional housing types be on public wastewater. If the Plan Commission cannot figure out a way to accommodate them on septic, they may be able to build something in to allow for some other alternative that may be common 20 years from now. Roger Miller did not think they would want to run storm sewer out to the location.

Accessory Dwelling units are the next topic and they would be allowed in A-1 and R zones. Ownership of the accessory dwelling unit has come up for discussion and whether they can be rented out or not. He said a lot of times places that adopt rules to allow accessory dwelling units are in an area where the cost of property is very high, but it would allow the property owner to generate some income to help pay their mortgage. One of the driving forces for accessory dwelling units is the Amish community.

Mr. Mabry said the draft requires that the property owner live in either the main house or the accessory dwelling, but it has not been decided whether to allow only a family member, who you would assume is not paying rent, or to allow non-family members to rent the dwelling.

Mr. Stump said he did not know how big the lots will be in this case, but he thought in most cases the residents should be related, because if the County opens this up for rental property then many problems will arise, as he learned from the City of Goshen's problems with this. He said there are a lot of rentals in the middle of residential neighborhoods and the people that rent these houses out cause a lot of problems for the rest of the people in the City. He realizes it is different in the County because the properties are further apart, but that is a big problem in Goshen and they have fought this for a long time. Mr. Doriot asked if the owner lived in the main house. Mr. Stump clarified the issues arise due to the rental properties. He did not see any difference with an accessory dwelling if it includes a rental property, because it is still a rental property.

Mr. Doriot explained the difference would be that the owner is living in the main house and a family member resides in the dawdy house, but that use may end so they may want to rent it out, and they could be 200 ft. from each other. Mr. Doriot said he guarantees that issues will come up; for instance, "get that car out of here or you are gone." Mr. Stump did not think that 200 ft. away was far enough, but 600 ft. may be. Mr. Doriot said he did not see a problem with the owner occupying one of the buildings and using the other dwelling as a rental. Mr. Stump disagreed and strongly urged the Board to reconsider renting the dwellings. He believed if they have an accessory house, they should be related to the owner.

Mr. Burbrink said there are a few properties that could be called Country Estates that; for instance, have nice horse barns with nice finished lofts and they have people that live in them. Mr. Stump clarified that those would not be classified as a rental, because the person living there would probably be tending the horses, which is different than just renting something out to anybody for any particular reason.

Mr. Godlewski explained that these would be situations where they would be accessing the same driveways from the primary house and it would be more of an intimate type housing setting rather than a stand-alone site. He believed because of the intimacy of the setting, the rental option

seemed to him as though it could work. Mr. Kolbus suggested they would have to be related, so the son that would be paying the dad rent is irrelevant. He agreed with Mr. Stump that the relationship is the key point. Roger Miller's concern was if they have someone living there that rents to a relative and the relative moves away, what would be done with the property. He wondered if they would have to sell it.

Mr. Stump asked what the purpose of it was, because the reason for it may be to have a relative move in to be close to an older parent to be able to watch over the parent. He said they would be granting that purpose, but would not be to rent the property out to make money. If they do that they would need another lot and an entirely different set up. Mr. Doriot disagreed, because he looked at it differently. For instance, an individual may have his property and it is set up the way he wants, but does not need to have a large house anymore, so he builds a smaller house and stays there, but he cannot afford all of that, so he would rent to someone else to help with the mortgage. Mr. Kolbus suggested that he subdivide it, but Mr. Doriot said in that case, it would not belong to that individual any longer.

Mr. Campanello said he could relate to Mr. Stump's comments, as a Goshen resident, but they are discussing a rural community. Mr. Stump asked how far is far enough away in a rural area, because 200 ft. is not far enough; 600 ft. might be; however, a quarter of a mile might be better. He believed that the County would be creating a lot of trouble that he saw opened up in Goshen City 30 or 40 years ago by changing their zoning and allowing all of the rental properties and duplexes. He said it would end up the same way as Goshen. He reiterated that he saw it as a big problem.

Mr. Doriot asked the Staff how they would police this situation. Mr. Mabry said any issues or problems would be taken in as complaints. Mr. Stump said if you get a complaint from a neighbor, the County would take action against it. Mr. Godlewski stated the rental will be treated as a separate dwelling and is separated from the primary dwelling, so that rental owner would need a separate address, separate utilities, separate drive and everything else. But because they are trying to put restrictions on it and keep the house intimate, it does cater to that need in the community for a separate dwelling, so he stated that some restrictions would have to be implemented. Mr. Doriot agreed there would have to be restrictions. Mr. Stump inquired, if they want to do this, how big would the lots be. Mr. Doriot said right now it is a three acre lot and larger; however, they also discussed allowing over a one acre lot in an A-1 and R zone.

Mr. Stump said if they are building a house specifically to rent out, he did not think that is the way to do it and it is absolutely a bad idea. He knew it would create problems down the road. Mr. Campanello suggested that it should stay as a family situation, for instance, if they would want their parents next to them so they could take care of them. Mr. Stump did not have a problem with that if that is the purpose.

Mr. Mabry informed them that the accessory dwellings concept is set for one acre or over properties; not three acres, and in the A-1 and R districts as well. Mr. Mabry said the feedback from the Policy Committee recommended an R-1 and a Special Use permit instead of a 'by right' allowance. At the present time, it is a use variance. A special use permit does not require a hardship; however, a use variance does. He believed it would be making it a little easier, and it would allow for the County to have some control, but it would be allowed subject to limitations. The Policy Committee recommended that the other R zones would allow for a two unit duplex 'by right'.

Mr. Godlewski thought it seemed to be an ongoing trend with the Policy Committee discussion to have less restriction in the A districts and more restrictions in the R districts; not just

with the accessory units, but in general. Mr. Godlewski planned on having a continued discussion next month when the Policy Committee meets again. He suggested, as a group, in August it would be a point to review Article 1 through 5.

Mr. Burbrink said he did not know if he would like to have a one acre lot in a subdivision with an odd shape to it and they would have one lot bigger than the others. He felt if they went larger than an acre and wanted to build a second house in the rear, he did not really like that idea. Mr. Stump said you could build it so it could be converted back and forth. Mr. Burbrink thought one acre was very small for the A-1 and R districts. He asked if they would have to have separate septics. Mr. Mabry said it would. Mr. Burbrink stated that they would have to come up with four places for septics.

Mr. Burbrink informed them that they would have a workshop after this meeting.

11. Mr. Burbrink adjourned the meeting at 10:22 a.m.

Respectfully submitted,

Sandra Herrli, Recording Secretary

Jeff Burbrink, Chairman