

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 14<sup>TH</sup> DAY OF NOVEMBER 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, Doug Miller, Steve Warner, Roger Miller, Steve Edwards, Tom Stump, Frank Lucchese, and Blake Doriot. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Duane Burrow, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Doriot/Edwards*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10<sup>th</sup> day of October 2013 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*D. Miller/Doriot*) that the legal advertisements, having been published on the 2<sup>nd</sup> day of November 2013 in the Goshen News and the 4<sup>th</sup> day of November 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 a zone map change from Detailed Planned Unit Development-M-1 to M-1, for ***JB Martin Properties, LLC*** (owner of lot 10), & ***LDM Real Estate, LLC*** (owner of lot 9), represented by Brads-Ko Engineering & Surveying, Inc., on property located on the North side of CR 42, 445 ft. West of SR 19, common address of 28125 CR 42 in Olive Township, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #28125CR 42-131007-1*, and confirmed that the staff recommendation is for approval, not denial, as indicated incorrectly on page 2 of the Staff Report.

Blake Doriot told James Kolbus that he was contracted to perform work on the property in question years ago. His clients wanted to subdivide land, but the project never came to fruition and "has been dead for years." Mr. Kolbus said there was no conflict of interest.

Barry Pharis of Brads-Ko Engineering & Surveying, Inc., 1009 S. 9 Street, Goshen, was present on behalf of the petitioners. Mr. Pharis said that many years ago Brads-Ko platted lots 9 and 10 for a single buyer, who built a building on lot 9 and wanted to live with his family in the house on lot 10. That occupant later decided to sell the West portion of lot 10 to a buyer who was to move a business onto it, but after quotes from Blake Doriot and Brads-Ko, that subdivision never occurred. The owner then decided to relocate his business and residence to St. Joseph County. John Martin bought lot 9 and his brother bought the East portion of lot 10. Mr. Martin obtained a building permit to relocate Southwest Laser to lot 9 and construct additions to the building, and then removed the existing residence and built his other business, a welding company, on lot 10, of which

he is now also owner.

Mr. Pharis went on to explain that since all the above platting, the Town of Wakarusa annexed the subject properties, which comprise a DPUD. When Mr. Martin wanted to add a small extension to one of the buildings, he had to schedule a meeting with the Wakarusa Technical Review Committee, which requires two weeks' notice, and file for a DPUD amendment with Elkhart County. Mr. Pharis said that a month after beginning the project, Mr. Martin had gone through the Elkhart County Technical Review Committee's process, and that Brads-Ko was unable to file for the amendment until a letter of agreement from the Town of Wakarusa to Elkhart County had been secured. A Secondary petition then had to be filed with Elkhart County, the requisite Plat Committee meeting had to be attended, and the Town of Wakarusa had to give its final approval. The addition of several thousand sq. ft. required 120 days of processing. For a subsequent building project, Mr. Martin had to wait another 90 days. He then spoke with Elkhart County staff who told him he would have to rezone to avoid delays for future projects.

After this, Mr. Pharis filed a request with the Town of Wakarusa to rezone the 2 lots as M-1 only. He said that any rezoning would not preclude Wakarusa Technical Review Committee review and approval of building addition projects and insisted that the eyes-on-site concept would never change. The people who have to agree to Mr. Martin's addition projects are all in the Town of Wakarusa, and Mr. Martin knows that if he ever wants to sell a portion of lot 10, the lot must be subdivided and see the normal processes involving the Wakarusa Technical Review Committee, the Elkhart County Plan Commission and Plat Committee, and a return to the Town of Wakarusa. Mr. Pharis said the only change before the Plan Commission today is a request to save Mr. Martin 30–60 days to be able to add to a building.

Roger Miller asked whether the petitioner was adding for business purposes and not residential, and Mr. Pharis said yes, there is no residence on the properties in question. Mr. Pharis added that the 2 businesses are growing. The building on lot 9 has been added to and Mr. Martin may need to add again soon. Mr. Martin has been hiring people, he maintains a very attractive site, and the Town of Wakarusa has been "delighted" to have him on the lots in question. Mr. Pharis also added that while lots 9 and 10 each had their own approved driveways, a single large driveway that serves both Southwest Laser and Southwest Welding has been constructed. Ample turnaround and parking are provided. If driveway plans deviate from what has been approved, that means Mr. Martin has a buyer for the West portion of lot 10, which will have to be replatted.

Mr. R. Miller asked what kind of traffic Mr. Martin is generating, and Mr. Pharis said the 2 businesses see a total of 10 trucks per day plus the traffic of customers and 10 employees. Mr. R. Miller asked whether CR 42 is an improved road, and Blake Doriot said yes. Mr. Doriot also said the rezoning is "the best solution for this . . . mess that's happened over the years since it was originally lot 10 of Clayridge." Mr. R. Miller said the rezoning would not affect what happens on the property; it just makes it easier for Mr. Martin to build.

There were no remonstrators present.

A motion was made and seconded (*Doriot/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:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Steven Edwards, that the Advisory Plan Commission recommend to the Wakarusa Town Council that this request for a zone map change from Detailed Planned Unit Development-M-1 to M-1 for ***JB Martin Properties, LLC*** (owner of lot 10), & ***LDM Real Estate, LLC*** (owner of lot 9), be approved in accordance with the

amended Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

6. The application for a zone map change from R-4 to B-3, for **David J. & Elizabeth A. Myers** (owners) and **Marjorie Kirkdorffer** (owner), on property located on the East side of US 33, 785 ft. North of CR 20, common address of 23929 US 33 in Concord Township, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #23929US 33-131007-1*.

David Myers, 2809 Ferndale Road, Elkhart, was present. Mr. Myers began by addressing the Staff Report's concern over lot size. Mr. Myers said he has owned the property for 25 years and has had his office there for 23 years. He is familiar with the area, and he cited the Staff Report's mention of small residential and office uses in the area. He countered staff by indicating the grocery store across the street from the property, the Goodwill to the Northwest, Indiana Discount Tire beyond the Goodwill, and Flavor Freeze, whose lot is half the size of Mr. Myers's and which constitutes a B-3 use because of its drive-in. He also mentioned car sales conducted on a 0.18-acre lot next to a nearby dance studio and said his request is not out of line with the area's uses.

Mr. Myers said a city sewer line crosses the road by Flavor Freeze and determined that a gravity feed could be done, so any use requiring city sewer could be accommodated. He added, though, that many uses would not require city sewer. For additional background, he said his property is almost 1.08 acres in size, Marjorie Kirkdorffer has moved into a nursing home, her home is not expected to be purchased and used as a residence, and a commercial building has been built on the property between Lewis Street and Sunnyside Drive, where there is an existing rental house. He concluded by restating that his rezoning request is appropriate for the area.

Mr. R. Miller asked Mr. Myers what his intent was, and Mr. Myers said his property has been for sale or lease for almost 5 years. An arrangement for the building of a chain store on the property could not move forward because of the effect of the economic downturn on the chain, and he would like to be able to better market the property. Enough offices throughout the county are sitting vacant, and an insurance company tenant recently occupied the property and then left. Mr. Myers said he wants to make the property appealing to builders of strip malls and fast food restaurant chains. Some potential uses are subject to the process involved in doing business under the current zoning, and potential buyers do not want to wait for that process.

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.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from R-4 to B-3 for **David J. & Elizabeth A. Myers** (owners) and **Marjorie Kirkdorffer** (owner) be approved as this area is developing more towards commercial businesses.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

7. The application for an amendment to an existing Site Plan Support Drawing to be known as ***SOUTH GATE HILLS II DPUD-B-3 PHASE IA***, for Bhupendra R. Patel (owner/developer) represented by Marbach, Brady & Weaver, Inc., on property located on the South side of CR 24, 791 ft. East of SR 19, in Concord Township, zoned DPUD-B-3, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #000CR 24-131007-1*. He summarized by saying the petitioner wishes to create 2 lots. Lot 1 would contain the existing retention and hotel, and lot 2 would comprise the area labeled so on the site plan. Lot 2 would have access to CR 24 via the previously established easement. Mr. Burrow also said that after Plan Commission approval of the current request, the petitioner will still have to provide a Site Plan Support Drawing amendment reflecting the intentions of an occupant of proposed lot 2.

Chris Marbach of Marbach, Brady & Weaver, Inc., 3220 Southview Drive, Elkhart, was present on behalf of the petitioner. Mr. Marbach said the purpose of the petition is to create a lot on the Southwest portion of the subject property that can be marketed toward a use that would support the hotel. The petitioner would prefer to have a restaurant nearby that would service his guests. Mr. Marbach also said no changes to the DPUD are proposed.

Jeff Burbrink expressed concern over the area directly to the West of the petitioner's property and asked for information on the area. Mr. Marbach said the area experienced ownership and foreclosure issues and was going to auction, but did not know the outcome of the auction. He added that the easement is in place, the maintenance documents are all part of the PUD, but what will happen to the balance of the land to the West of the subject property is unknown.

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.

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 an existing Site Plan Support Drawing to be known as ***SOUTH GATE HILLS II DPUD-B-3 PHASE IA*** be approved in accordance with the Staff Analysis with the following conditions and limitations:

1. Any development will require an amendment to this PUD ordinance at a public hearing to adopt the Site Plan Support Drawing.
2. All conditions, limitations, commitments, and covenants established by the GPUD and any subsequent DPUDs are not to be considered amended, superseded, or modified by this action unless specifically declared so in the DPUD ordinance text.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

8. The application for Secondary approval for a Detailed Planned Unit Development known as ***SOUTH GATE HILLS II DPUD-B-3 PHASE IA***, for Bhupendra R. Patel (owner/developer) represented by Marbach, Brady & Weaver, Inc., on property located on the South side of CR 24, 791 ft. East of SR 19, in Concord Township, zoned DPUD-B-3, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #000CR 24-131007-2*.

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 approve this request for Secondary approval for a Detailed Planned Unit Development known as ***SOUTH GATE HILLS II DPUD-B-3 PHASE IA*** in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

9. The application for a zone map change from A-1 to Detailed Planned Unit Development-M-1 to be known as ***BRISTOL PARK FOR INDUSTRY, PHASE 3 DPUD-M-1***, for Tubra, LLC (owner/developer), represented by Marbach, Brady & Weaver, Inc., on property located on the East side of CR 29, 2,600 ft. North of SR 120, in Washington Township, was presented at this time.

Blake Doriot announced that he is board director of the St. Joseph Valley Rifle and Pistol Association, which owns property East of the petitioner's. His position is nonpaying and the association's rifle range is nonprofit. Mr. Doriot said that though he might comment on the association's activities, he has no financial interest in the petition at question.

James Kolbus responded by explaining Plan Commission conflicts of interest. He said in cases of recommendation of rezoning approval to the Board of County Commissioners, "the standard is direct or indirect financial interest." He also said that in cases of a Plan Commission final decision, as with a subdivision plat, the standard is "direct or indirect financial interest or biased, prejudiced, or unable to be impartial." He told Mr. Doriot that this case is only a matter of direct or indirect financial interest and that since his board position is nonpaying, there is no conflict and he may participate. He concluded by thanking Mr. Doriot for bringing the information into the record.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #OCR 29-131007-1*, and cited the Staff Report for the Secondary petition (*Case #OCR 29-131007-2*), adding that staff recommends that the Plan Commission forward the Secondary petition to the Board of County Commissioners with a favorable recommendation in the event the Primary petition is approved.

Chris Marbach of Marbach, Brady & Weaver, Inc., 3220 Southview Drive, Elkhart, was present on behalf of the petitioner. He said that Tubra, LLC, is the purchaser of the property, but the name of the business to occupy the building will be Reschcor. The Blakesley family is the current owner, and J. A. Wagner will be involved in the project. The subject property is 33 acres in size, East of CR 29, surrounded by the toll road at the North, and bordered at the South by the railroad. Reschcor is proposing a 110,000 sq. ft. building accompanied by a paved area for employee and visitor entrance that eliminates as few trees as possible and winds through the woods. Mr. Marbach explained that Reschcor is a leading manufacturer of plastic profile extrusions. It works in the agricultural, building, and construction industries, manufacturing railing and decking components. The company does mono-, co-, and triextrusions, can match colors and place wood grain on plastics, and has in-house designers and an in-house tool and die shop to keep patented information in house.

Mr. Marbach said the facility will have approximately 60 production workers on various shifts, 20 office personnel, 10 visitors per day, and 1 inbound and 4 outbound semis per day carrying finished product. Reschcor also has future plans, after approximately 5 years, for a railroad

spur receiving 2 cars per month, whose contents will be unloaded, staged in the outside rear area of the building, then moved inside.

Mr. Marbach also explained that he has stipulated on all plans that the building be served by Town of Bristol water and sewer and that staff's unfavorable recommendation for the project "has to do with the old proverbial chicken and the egg—which comes first?" He said that Marbach, Brady & Weaver has annexation descriptions and documents prepared for annexation from current town limits to all the Blakesley properties South of the toll road and that Bristol's attorney wants the Plan Commission to grant this a favorable recommendation before he starts the annexation process. Staff, however, "doesn't want to give . . . a favorable nod because we're not in the town. So, hence, the circle here." He said also that the intent is to start the annexation process and that the project has met all the technical requirements as long as the subject property is annexed and is on Town of Bristol sewer and water, and added that those 2 conditions should be added to the Plan Commission's favorable recommendation.

Marbach, Brady & Weaver, Mr. Marbach then said, has been hired by J. A. Wagner to design the extension of sewer and water and the extension of Commerce Drive from 2,000 ft. West of the petitioner's property to CR 29, and all design plans should be in by spring 2014. He asserted that Plan Commission's recommendation is to the Bristol Town Board, not the Board of County Commissioners, because annexation would already have happened by the time the petition reached the County Commissioners.

Tony Campanello asked whether the project completes Commerce Drive, and Mr. Marbach said it does complete Commerce Drive all the way to CR 29. He said "we had a GPUD all the way to 29" but that "we did have a stipulation in that original DPUD that we weren't going to bring that connection." He also said he is now ready to ask for that connection, which allows traffic from the site to go directly out to the toll road.

Mr. Doriot asked whether truck traffic from the site is expected to go toward the toll road and stated that he was sure some drivers will use the existing connection to SR 120. Mr. Marbach responded by saying that was probably true and reiterating his understanding that annexation was required and needed. He also mentioned the town's interest in expanding its well system. A new well field is proposed in the Southwest corner of the Blakesley property that will service the development at question.

Bill Wuthrich, Bristol town manager, 403 Trout Creek Road, Bristol, stated this project has been in the planning stage for many years and will involve extension of Commerce Drive through the Blakesley property. He said that the town is in agreement with J. A. Wagner and the hiring of Marbach, Brady & Weaver and that the town will run water and sewer and has signed a contract involving installation of a new well field in the Southwest corner of the Blakesley property. The well field, despite earlier plans, will be behind Bayridge because of easy access from Commerce Drive. Mr. Wuthrich also stated that water and sewer has been extended not quite to the edge of the city limits, but that "we have plenty of continuity for the annexation." Commerce Drive will meet CR 29 just South of the wooded area shown on the Site Plan Support Drawing, "which is going to make a nice asset in there," and though the majority of traffic will be on Commerce Drive, CR 29 will see some traffic. He restated that the project, which will have little effect on the residential area South of the railroad, will be an asset to the Town of Bristol and the community.

Mr. Campanello asked whether the residential area mentioned is on city water and sewer, and Mr. Wuthrich said it is on county, indicating the Town of Bristol intends to annex the area. The annexation is from the railroad North to the toll road, which, Mr. Wuthrich believes, is about 1,100

ft. of CR 29. Mr. Campanello then asked whether the planned well field will affect the wells of residents of the residential area South of the railroad, and Mr. Wuthrich said no. He said he has been told that the town has already signed a contract with a company that will drive a 12-inch well with a capacity of 1,200 GPM. The well will be 160–170 ft. deep, the water is good and plentiful, and the aquifer study has already been done. Most wells South of the petitioner’s property, Mr. Wuthrich said, are shallow. The proposed well field will serve not only the Reschcor facility; “it will be a wellhead protection plan for the town, which will backfeed our existing water system.” No tower or tank is planned at this time. The proposed well and the existing tower and tanks will be used for overflow. Mr. Wuthrich also said the Blakesley farm comprised approximately 160 acres and affirmed the petitioner’s plans to retain the wooded area shown on the Site Plan Support Drawing for employee enjoyment and recreation. He concluded by repeating Mr. Marbach’s chicken-and-egg concern; the town does not want to annex without county approval of the project.

Jeff Burbrink asked whether annexation would include the small triangular area adjoining the East edge of the subject property, and Mr. Wuthrich said that based on what he was told, the annexation would include 33 or 34 acres from the toll road to the railroad. He was not sure about the triangular area. Mr. Doriot identified the area as St. Joseph Valley Rifle and Pistol Association ground and identified all association ground as landlocked, accidental impact area.

Al Machin, 1637 Columbian Avenue, Elkhart, who has hunted deer on St. Joseph Valley Rifle and Pistol Association property for 30 years, said he was against the PUD. He said deer cross the petitioner’s property at evening all year long. If they cannot cross the petitioner’s property and go toward the Yoder property immediately to the South and eventually toward association property in search of open spaces, they will have no choice but to cross the toll road, which has no animal detection equipment. The association owns 60 acres of land, but “they’re only using up to the berm where they shoot.” He cited the association’s rejection by the county because of the toll road and the railroad. Mr. Machin then expressed concern over increased traffic on CR 29, saying he also hunts on land owned by neighbors other than the association. He said that though the Bristol town manager said traffic impact on CR 29 would be minimized, traffic impact would actually be maximized. CR 29 was not meant to carry semi traffic. Mr. Machin also said homeowners South of the railroad who are impacted by the new building are not represented in the Commissioners’ packets. None of those homeowners along CR 29 want to see this development, and they are not able to represent themselves because of the Plan Commission meeting time of 9:30 A.M.

Colton Yoder, 52714 CR 29, Bristol, lives immediately South of the subject property, on CR 29, and requested denial of the zone map change. He began by expressing concern over increased traffic on CR 29, which was not designed for heavy traffic and may have to be widened at great cost. CR 29 at the toll road underpass was just redesigned, and a second redesign would be a waste of money. Widening would result in loss of property for homeowners along CR 29, and a stoplight may have to be installed the intersection of SR 120 and CR 29. Mr. Yoder also said he and other neighboring property owners are concerned about air, water, and visual contamination; safety of children, pets, and livestock, particularly at the intersection of the railroad and CR 29, where there is only a disregarded stop sign and no traffic light; safety of wildlife, which will be forced to cross the toll road in order to move East from the area of the petitioner’s property; security issues; excessive noise; devaluation of property; and excessive brightness of lights. Mr. Yoder then submitted a document *[attached to file as Remonstrator Exhibit #1]*, accompanied by signatures of neighboring property owners, requesting denial of the petition.

Jeff Fisher, 16404 SR 120, Bristol, asked whether the petition was for “rezoning and

jumping right into detailed planned development unit all together” or for simply going from A-1 to M-1. Mr. Doriot said that the petitioner’s request was to rezone to M-1 Detailed Planned Unit Development and that it was “one whole thing.” Mr. Fisher then asked whether today’s meeting was the one for talking about details, and Mr. Doriot said the petition would go to the Town of Bristol after or during annexation. Otherwise it would go to the County Commissioners. Mr. Kolbus added that the detailed plan is where conditions are set. Mr. Fisher asked whether the Plan Commission wanted to hear “that” today, and Mr. Doriot and Mr. Kolbus said yes.

Mr. Fisher then stated that the petition should receive a negative recommendation upon forwarding to the County Commissioners because of the rezoning history of all land between SR 15 and the subject property. He stated J. A. Wagner rezoned with intent to start at Commerce Drive and move from West to East, and distributed copies of a page from the Plan Commission minutes taken in March 2007 *[attached to file as Remonstrator Exhibit #2]*. Mr. Fisher said that based on the submitted exhibit, it was clear that the portrayal was that development would begin at the West, at Commerce Drive, and move East as time went on. In Plan Commission, County Commission, and landowner discussions, West-to-East movement was an important precedent. He said he knows that money and jobs are behind the current petition, but the development from Commerce Drive to CR 29 was based on certain assumptions and statements, and “we’re changing the entire game now.” In discussion between homeowners and J. A. Wagner at J. A. Wagner’s office, homeowners were told that the subject property and the one adjoining it to the West would be ignored because movement would be from West to East. Mr. Fisher also indicated that a review of the March 2007 Plan Commission minutes reveals phrases about phases to the project and “it was always that the first phase was to the West . . . .”

Mr. Fisher then cited discussion about a 5 ft. buffer during the meeting between J. A. Wagner and neighboring landowners. The buffer would involve a mound of dirt and trees placed along CR 29 and along the South edges of the parcels directly to the West of the subject property, but Mr. Fisher insisted that he was told the installation of the buffer and the development from which it was to provide shielding would wait until “far later.”

Mr. Fisher went on to quote Elkhart County’s comprehensive plan, saying that planned growth meant “managed growth in an orderly development focused in and near cities and towns and along selected major highways.” He said the subject property is not along a major highway and submitted photos demonstrating that the area at question does not have the look or feel of nearness to a city or town. The first photo submitted *[attached to file as Remonstrator Exhibit #3]* shows a section marker near the subject property. The second photo submitted *[attached to file as Remonstrator Exhibit #4]* is a view to the Southwest from the section marker, and the third photo submitted *[attached to file as Remonstrator Exhibit #5]* is a view to the North from the railroad tracks. Mr. Fisher summarized by saying the development at question is not starting at Commerce Drive, it is not the result of movement from West to East, and it is neither near a city nor on a major highway.

If the petition were to be approved, said Mr. Fisher, then he and other neighboring landowners would like to have dark-sky lighting, a 10 ft. limit on lightpost height, hours of operation limited to first shift, facility-generated noise levels limited to those generated by the toll road, no outside speakers, no truck traffic on CR 29 at such time Commerce Drive is extended to it, visually attractive building exteriors featuring brick on South-facing and West-facing walls per the early discussion between J. A. Wagner and neighboring property owners, and natural landscaping and buffers on the Southwest portion of the subject property. Mr. Fisher also raised concern over water contamination. He said the Little Elkhart River runs along the South portion of his property



and the water table is very high in the area. Contaminants running from the facility will find their way toward the river via residential land between the subject property and the river.

Chris Perry, 16405 SR 120, Bristol, lives at the intersection of SR 120 and CR 29. She said that she is all about progress and that without factories we wouldn't have the luxuries we have today. But she wanted to understand what the factory in question would bring to the area before raising her concerns. She asked for confirmation that the factory would employ 60 workers including 20 office personnel, and Mr. Doriot said that was what he heard in Mr. Marbach's original presentation. She asked for confirmation that the factory would see 1 incoming semi and 4 outgoing semis, and Mr. Kolbus confirmed. She also asked for confirmation that the petitioner wanted to add a railroad spur, Mr. Campanello confirmed, and Mr. Kolbus repeated that the spur would not be added for another 5 years.

Mrs. Perry went on to say she was concerned about the effect of annexation on the water supply. She said she wanted a written statement confirming that water testing would not affect her and compensation and repairs would be provided if it did. She also worried that at a later time the petitioner would be required to connect to city water and sewer and stated she would have to pay for that. Another concern Mrs. Perry raised, given the small number of new employees, was over new construction in spite of the empty buildings at an industrial park on the other side of Bristol that already have city water and sewer connection and railroad service, as well as other buildings in Bristol that are underutilized "eyesores." "Our road is not made for the heavy trucks," she added, and she stated she wanted a barricade at the railroad crossing to heavy trucks and extra traffic. She said that as a livestock owner she is often on the road early in the morning transporting horses and cows and she does not want to share the road with new employees who are "in too big of a hurry because they're still putting on their makeup or they've been partying all night . . ."

Mrs. Perry also mentioned that the railroad crossing will need to have a traffic light added if no barricade is installed; many drivers ignore the stop sign. CR 29 will have to be widened, which will result in a loss of property and driveway. And in the event of a reduction of acreage below 3 acres because of road widening, she asked whether she would be able to keep her livestock. Mrs. Perry concluded by seconding previous remonstrators' comments about the effect of the development on the movement of wildlife. She said she wants to be able to continue to see wild turkeys and guineas.

Elsie Ubario, 52821 CR 29, Bristol, said the company has not stated any plans for storage buildings. When Mr. Campanello asked, "Outside storage?" Mrs. Ubario said yes, outside storage. She said it was a minor thing, but she goes along with all the other comments of previous remonstrators.

Carlton Yoder came forward again to ask whether the company would target area residents as job candidates if the petition were approved.

Mr. Marbach began his response by addressing concerns over deer and other animals. He said the plans are to preserve as much of the woods as possible. Deer migrating through the area should still be able to do so. With respect to rezoning, he asked the audience to keep in mind that a GPUD allowing M-1 use is established all the way to CR 29. With respect to the concern over development from West to East, he said that movement is not changing. Lami Plast's petition in October 2013 concerned 15 acres West of the subject property, and a purchase agreement for the sale of additional property West of the subject property is already in place and survey and design are underway. Only 1 intervening undeveloped parcel remains, so almost all property up to CR 29 is accounted for through sale or agreement for sale. "Our gap is not as much as you think it is," he

added.

With respect to traffic concerns, Mr. Marbach said the extension of Commerce Drive should relieve CR 29 of traffic coming out of the facility. Commerce Drive is the “logical place” for trucks to go. Mr. Campanello asked Mr. Marbach what regulation he would use to keep trucks off CR 29, and Mr. Marbach said routine training for incoming truck drivers would include instruction to avoid CR 29. He could not promise 100 percent avoidance of CR 29, but there will only be 4 outgoing trucks per day, not hundreds. Mr. Kolbus said another way to regulate would be to approach the town board after annexation to request signs prohibiting trucks. The prohibition would be enforced by the town’s police department. Mr. Kolbus said that would be the best way to handle the issue; it is out of the control of the development. Tom Stump said Bristol will not annex CR 29 South of the railroad, “so that’s where your No Truck signs would have to be.” Mr. Stump then asked whether Commerce Drive would be extended when the factory is built, Mr. Marbach said yes, and Mr. Stump said CR 29 would then be opened up to everything to the West and will see truck traffic coming from the East on SR 120. Mr. Campanello said that was a good point, and Mr. Stump repeated that CR 29 would have a problem with truck traffic. Mr. R. Miller added that new traffic coming up CR 29 from SR 120 would be more of a problem than the factory itself and that the only options are weight limits on trucks and signs prohibiting truck traffic. Mr. Marbach’s response was that those are options and that while Marbach, Brady & Weaver can request weight limits, it cannot control the highway department’s decision on them.

Mr. Stump asked Mr. Doriot what the highway department’s input was, and Mr. Doriot said the department looked at the project during a tech committee meeting. Mr. Marbach said Highway’s comment was that the town is responsible for the annexed section of the road. He said Highway did not have any other comments.

Indicating an area East of the subject property, East of the toll road, Mr. Doriot pointed out a 100-position rifle range that accommodates several named shooting activity types and competitions. At times there are up to 300 shooters present, the range gets very noisy, and Mr. Doriot said he was sure the neighbors all know about it. The range predates the toll road, and Mr. Doriot suggested adding prohibition of remonstrance against noise as an approval condition. Mr. Marbach acknowledged the existence and activities of the range and said the purchaser has no issues with it. Mr. Marbach said 24-hour-per-day shooting is not anticipated, and Mr. Doriot confirmed it is not but said there are always at least 1 or 2 range users present, though the range will sometimes go a week without anyone present.

Mr. Doriot reminded Mr. Marbach of the lighting concerns presented, and Mr. Marbach said all lighting will be pointed down in typical parking lot fashion and not pointed up. Mr. Doriot asked whether the county standard was 25 ft., and Brian Mabry said that though there might be a typical standard imposed on a DPUD, he did not think there was a countywide standard for light height.

Mr. R. Miller reminded Mr. Marbach of the outside storage question, and Mr. Kolbus repeated concern over outside speakers. Mr. Marbach said that some raw materials may need to be staged directly behind the building. This was the only outside storage location he was aware of, and he said it would hopefully be screened with “some landscaping and so forth along the front there.” No outside speakers are planned.

Mr. Doriot then asked about onsite pollutants, and Mr. Marbach said the petitioner will follow IDEM’s requirements and secure all required permits. No illicit discharge is intended. Mr. Doriot also asked whether truck drivers would be instructed to exit using Commerce Drive, and Mr. Marbach said he was sure the company would be happy to instruct its drivers to do so. Mr.

Campanello asked about plans for buffers, and Mr. Marbach first indicated the toll road, which is 300 ft. wide, and the railroad, which is 100 ft. wide. He said the drawing does not contain a specific plan, though an elevation view of the building showing facade design has been provided, and asked the Commission to keep in mind that all land across the street from the subject property is zoned GPUD M-1 and that all land in question will ultimately be M-1.

Mr. Doriot then began to ask a question regarding the 2007 ordinance and plan, and Mr. Burrow stepped in to say the plan itself shows a cul-de-sac, which indicated that there were no plans to go out to CR 29. Mr. Campanello said there was no commitment at that time, and Mr. Doriot said he saw a plan, a cul-de-sac, and a previous cul-de-sac on the other property. Mr. Burrow said the plan itself was part of the ordinance, "it is considered as a commitment on the ordinance," and "they're not required to show that under a General Planned Unit Development." Mr. Doriot asked whether development has already gone past that cul-de-sac, and Mr. Burrow said no but almost. Mr. Doriot told Mr. Marbach that in an effort to address the remonstrator's questions regarding West-to-East progress, he could not find anything in the ordinance that indicated West-to-East movement, and Mr. Marbach said the 2007 application was filed as a DPUD application and was accompanied by DPUD drawings. The development was converted to a GPUD as it went through the system because of "some of the concerns of the area." "Some of the drawings were mixed up in that application . . . . It says 'D' on that application drawing as a DPUD, but yet it really got approved as a G." He admitted that he said there would be no connection to CR 29 at that time; that was because the highway department wanted paving of "29 all the way up to 4 and 4 all the way to 15." Highway has since changed that requirement and, in an effort to encourage entry of businesses, is not being as "draconian." Bristol will be in charge of maintaining the road from the railroad to the toll road because of annexation and has no concerns about going forward, and the petition states desire to make the connection of Commerce Drive to CR 29 as part of a comprehensive plan for the industrial park.

Mr. Campanello asked whether a commitment can be placed on the project that requires the county highway department to install signs limiting weight of vehicles turning from SR 120 onto CR 29, and Mr. Doriot said that while the Plan Commission can request a Highway investigation, weight limits are within the purview of the Board of County Commissioners. Mr. Marbach mentioned that the Board receives such requests every once in a while, so if problems arise as the project evolves, such a request can be brought to the Board. Mr. R. Miller said that Bristol can place its own limits on CR 29 if it is annexed, but Mr. Stump reminded him that the portion of CR 29 South of the railroad was what was at question. Mr. Lucchese said that if Bristol were to place a weight limit, the county would place a sign at SR 120. He said the county did a similar placement for Goshen on CR 38. It was done "backwards," but the signs are there.

Mr. Stump said that the Board of County Commissioners or the highway department should say whether trucks will be permitted on the South part of CR 29 before approval of the petition. The use of that portion of CR 29 by trucks, which will mainly come from the East, not the West, will create a maintenance problem. More traffic than that generated by the factory will appear on the South portion of CR 29. Mr. Marbach said the highway department has seen the application and signed off on the request, and Mr. Lucchese restated that a no-truck sign will be placed at SR 120 upon annexation by the town for the portion of CR 29 in question. Mr. Campanello asked, "Per the Commissioners?" and Mr. Lucchese said the Board will work with Bristol. Mr. Doriot asked Mr. Wuthrich whether the Bristol Town Board considered such things, and Mr. Wuthrich said the Board has talked about it, would "put a no-trucks from the railroad South" upon annexation, and does not

want trucks going down CR 29 to the South, though he could not say there would not be one once in a while. He was sure some truck drivers use CR 29 right now on their way to CR 4, but the majority of trucks travel from West to East and East to West.

Mr. Stump raised the example of Kercher Road in Goshen, where trucks were prohibited West of SR 15. Eventually truck drivers started using that portion of Kercher Road and the county planned a new bridge and road widening. Mr. Doriot said truck drivers cannot be stopped from making local deliveries unless a safety issue exists. He cited another business owner who receives 4–5 semis per day but whose business is local. This is something that the town would have to figure out if it pursued an ordinance, and semi traffic is something that cannot be taken away especially from an existing business. Mr. Burbrink asked whether a business can be required to use alternate access if it exists. Mr. Doriot said he thought so, but the town would have to exercise care in writing its ordinance; local vehicles are normally exempt. Even if truck traffic is prohibited near a farm, the farmer still has to be able to get crop out. Mr. Stump said Mr. Doriot was exactly right and said no county road, state road, or offlet exists between SR 120 and Bristol Park for Industry. He said there is another access point, but he was not sure whether truck drivers could be stopped from going down CR 29. Mr. Doriot then stated that the Plan Commission recommends to the Bristol Town Board on this matter.

Mr. Marbach stated that in 2012 the average daily traffic on CR 29 “in front of our site” was 73 vehicles per day, 11 of which were trucks. Mr. Stump said Mr. Marbach would have more traffic once Commerce Drive is opened up, and Mr. Marbach replied saying a major highway connection for the industrial park is established for SR 15 South to SR 120 and there is a “back door” for emergency purposes in the event of a blockage at the other end of Commerce Drive. If the Commission says “it’s dead-ended,” there will be close to 3,000 ft. of road to SR 15 without a way out. Blockage at the other end of Commerce Drive means no emergency access to the entire site. Mr. Stump said that though it does make perfect sense to put Commerce Drive through, he was concerned over what would happen to CR 29 between Commerce Drive and SR 120. He said he would question anyone saying truck traffic can be kept off that portion. Mr. Marbach said signs could be put up and hopefully there would be enforcement. He said he did not think it was a stretch, “we’re almost there with ownership to make it a full development,” and residential neighbors will not be hurt or forced to hook up to Bristol sewer and water following annexation, as Bristol will not make such a connection unless a home is within town limits.

Mr. Campanello asked whether the well field would still go in if the petition were not approved. Mr. Wuthrich said he was anticipating the well going in because most of the area in question is now under development. He also said the aquifer study reveals that water travels Southwest, not East.

Mr. R. Miller stated that his biggest concern was over prohibition of trucks on CR 29, which, because of local deliveries, cannot be kept off the road. Only trucks going from SR 120 to Commerce Drive via CR 29 can be kept off. He said extension of Commerce Drive makes perfect sense and added that truck drivers will avoid roads that have no-truck signs because they do not want to be stopped and hassled.

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

The Board examined said request. Examination, in part, resulted in a request that the petitioner provide an updated site plan that shows the outside storage area, the determination that the Board of County Commissioners is the legislative body in charge of the DPUD ordinance, and the

determination that the Town of Bristol would not annex before approval of this petition by the Board of County Commissioners. After due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Tom Stump, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to Detailed Planned Unit Development-M-1 to be known as **BRISTOL PARK FOR INDUSTRY, PHASE 3 DPUD-M-1**, be approved with the following conditions:

1. Dark-sky lighting or interior-directed lighting.
2. Owner is to facilitate the trucks to be directed to use Commerce Drive and only CR 29 for emergency purposes.
3. That Commerce Drive be extended through to CR 29 to serve this property.
4. All potential pollutants are to be handled per IDEM restrictions and requirements.
5. The outside storage to be limited to the area between the building extending no farther West than the established paving on the Site Plan Support Drawing. That a buffer be placed in this area.
6. That they recognize adjoining uses and not remonstrate against those legal uses.
7. No outside speakers.
8. That it will be annexed sometime during the process.
9. Municipal sewer and water.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

10. The application for Secondary approval of a Detailed Planned Unit Development-M-1 known as **BRISTOL PARK FOR INDUSTRY, PHASE 3 DPUD-M-1**, for Tubra, LLC (owner/developer), represented by Marbach, Brady & Weaver, Inc., on property located on the East side of CR 29, 2,600 ft. North of SR 120, in Washington Township, zoned A-1, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #0CR 29-131007-2*.

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

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Steve Warner, that the Advisory Plan Commission approve this request for Secondary approval of a Detailed Planned Unit Development-M-1 known as **BRISTOL PARK FOR INDUSTRY, PHASE 3 DPUD-M-1**, in accordance with the Staff Analysis.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

11. The application for Secondary approval of a 12-lot major subdivision known as **WINDING RIVER ESTATES PHASE TWO**, for D. Afton Development, LLC, represented by Brads-Ko Engineering & Surveying, Inc., on property located on the West side of CR 37, 835 ft. South of CR 10, in York Township, zoned R-3, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #0000CR 37-131010-1*. Mr. Mabry also said the required letter requesting extension of the Winding River Estates Phase Two Primary has been received from the petitioner's agent and that condition 2

on the Secondary's Staff Analysis has been satisfied.

The Board examined the request to extend the Winding River Estates Phase Two Primary, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Steven Edwards, that the request for approval of an extension of the *WINDING RIVER ESTATES PHASE TWO* Primary be approved. The motion was carried with a unanimous vote.

Barry Pharis of Brads-Ko Engineering & Surveying, Inc., 1009 S. 9 Street, Goshen, was present on behalf of the petitioner. He said the petitioner needed to consult with Elkhart County and its own law firm before its bank could issue a letter of irrevocable credit, as a long time had elapsed since the last letter was provided. The petitioner should have the letter by Friday, November 15, and Mr. Pharis will forward it to the Planning staff. Mr. Pharis said that deed restrictions are always recorded after the plat is recorded, and "it will have the same deed restrictions that are in place for the first phase of this development."

Mr. Pharis also said FEMA has implemented flood map changes that dramatically impact the property in question, and Brads-Ko has been processing FEMA's numbers, which were not generated by field survey. In most cases where Brads-Ko has performed field verification, elevations have been found to be unchanged, but the South portion of the property in question will require dramatic change. Brads-Ko will provide a new Primary plan in late winter or early spring that will address issues pertaining to the lots that will be lost to floodway, and Brads-Ko will then address the common area and mounding. Additional soil borings, Mr. Pharis has told Bill Hartsuff, will be presented on the new Primary plan. The lots North of the phase 2 area are unaffected by the floodway and appear as approved in the initial Primary plan.

Mr. Pharis noted that Winding River Drive and Bonito Court have been installed with the exception of the final coat, the bond calls for installation of Spoonbill Court and an extension of Winding River Drive as shown on the site plan, and the mounding in question is along CR 37, North of Winding River Drive. Highway understands that any final coat on the installed roads will be destroyed when heavy trucks come in for work on phase 2 of the project, so an agreement has been reached that allows heavy construction on phase 2 to reach completion. The final coat will be placed on Winding River Drive and Bonito Court, and the bond will then be released. A construction entrance will then be added South of the phase 2 area, stakes that help preserve future septic sites will be placed, and heavy trucks will remain off the newly constructed roads and not impact septic sites. All 5 approval conditions listed on the Staff Report have been met, and Mr. Pharis said he will keep staff apprised of each step of the phase 2 process.

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

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Roger Miller, that this request for Secondary approval of a 12-lot major subdivision known as *WINDING RIVER ESTATES PHASE TWO* be approved in accordance with the Staff Analysis at such time the Plat overcomes the following conditions:

1. The approval of road plan, construction of road bond, and guarantee by the Elkhart County Highway Department.
2. Submittal of deed restrictions to be recorded for this plat.
3. Timetable for the dedication and ownership (must be per lot) of Common Area Park.
4. Acceptable timetable for berm and drainage swale along CR 37.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

**Yes:** Blake Doriot, Douglas Miller, Frank Lucchese, Jeff Burbrink, Roger Miller, Steve Warner,

Steven Edwards, Tom Stump, Tony Campanello.

12. The application for Secondary approval of a Detailed Planned Unit Development known as **TIMBERSTONE THIRD DPUD**, for Innovative Land Development, LLC, represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of CR 15, 3,750 ft. South of CR 6, in Osolo Township, zoned DPUD-R-1, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #000CR 42-131007-1*. He noted that extension of the Primary would need approval before the Secondary petition could be heard. (The required letter requesting extension of the Primary has been received and appears in the petition's file.)

The Board examined the request to extend the Timberstone Third DPUD Primary, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Roger Miller, that the request for approval of an extension of the **TIMBERSTONE THIRD DPUD** Primary be approved. The motion was carried with a unanimous vote.

Barry Pharis of Brads-Ko Engineering & Surveying, Inc., 1009 S. 9 Street, Goshen, was present on behalf of the petitioner. Beginning with inadequacy 3 of the Staff Analysis, he said there are several ways to correct the problem. The lot could be called 66-O, 66 "O," or 66o. Designation could also skip 66O altogether—66N then 66P—but this would cause a lot to appear to be missing. Mr. Pharis voiced preference for the designation 66-O but insisted Brads-Ko would do whatever the Plan Commission thought best. As part of Plan Commission discussion, Mr. Doriot told Mr. Pharis to "just define it somehow," and Mr. R. Miller told Mr. Pharis to "do Rock, Paper, Scissors and we're done." Mr. Pharis then asked whether the designation using quotation marks, Greg Shock's preference, could be used, and Mr. Doriot said the designation using a hyphen must be used.

Mr. Pharis went on to address a lot 77 matter, where a buyer who asked that the 2 lots that originally comprised what is now lot 77 be combined now no longer wants to buy. The petitioner would like to redivide the lot and change the lot numbering appropriately. Mr. Doriot asked about the sizing of the resulting 2 lots, and Mr. Pharis said they would be as large as or larger than any of the others. Mr. Doriot and Mr. Burbrink designated the request as that for a minor change.

Tim Miller of Innovative Land Development, LLC, 21920 CR 45, Goshen, restated the request to redivide lot 77 and said 2 lots have been eliminated on the overall Primary plat because of the addition of the retention space shown on the East portion of the plat. Retention for stormwater storage is also being added to one of the last Timberstone phases. The completion of Timberstone Third will thus result in a net loss of 2 lots. Mr. R. Miller asked how the numbering would be adjusted, and Mr. Pharis said the appropriate changes to lots with numbers higher than 77 would be made. Mr. Doriot and Mr. R. Miller designated the request as that for a minor change, and Mr. R. Miller said the change should be made now.

The Board examined said request and after due consideration and deliberation, including Board conclusion that lot 77 may be resplit into 2 lots:

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that this request for Secondary approval of a Detailed Planned Unit Development known as **TIMBERSTONE THIRD DPUD** be approved in accordance with the Staff Analysis pending correction of the following inadequacies:

1. Submittal of road bond and guarantee to Highway Department.
2. Real estate taxes are brought up to date.

3. Redesignation of lot 66O as lot 66-O.
4. That subdivision restrictions are made part of this plat.

The motion was carried with a unanimous vote.

13. *Amendments to the Elkhart County Advisory Plan Commission Rules of Procedure*

Mr. Mabry stated he was available to answer any questions about the amendments, which are a “cleanup” of the rules of procedure. Exhibits, applications, and other materials are now part of a single document, and language is cleaned up. The request for the creation of the administrative adjustment, a staff-approved “minivariance,” was granted January 2013, and the associated \$40 review fee has been added to the fee schedule.

Mr. Kolbus asked whether clean copies would be provided, and Mr. Mabry said yes.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump, that this request for adoption of the Elkhart County Advisory Plan Commission rules of procedure be approved as amended. The motion was carried with a unanimous vote.

14. *Planning Fees*

Chris Godlewski told the Board that the document provided results from a conversation he had with Steve Warner and outlines a comparison of Elkhart County’s planning fees with those of the cities of Elkhart, Goshen, and Nappanee. He asked whether alignment of planning fees should be the approach taken, as was done with building fees, and said that the planning fees have not been adjusted for at least 6 years.

Mr. Kolbus asked whether the goal of the current discussion was to determine whether fees should be changed, and Mr. Godlewski said yes. He wanted to know whether they were too high, too low, or right, and said he could continue asking what representatives of other jurisdictions wanted to do. Nappanee is interested in raising its fees marginally. Mr. Lucchese said problems would arise if the Board adopted new fees before Nappanee’s fee increase.

Mr. Doriot complained about high Primary and Secondary subdivision fees paid by applicants who simply want to divide land and split off homes. “It’s still a lot of money to these people,” he said. Mr. Godlewski responded saying the nature of development is different. Mr. Stump said his interest is in “the cost to us to do these things” and asked whether taxpayers are expected to fund project review. Mr. Doriot said the public is creating more tax parcels, and Mr. Stump asked whether that makes the county more money. Mr. Godlewski said that the county generally subsidizes planning and zoning fees, which do not cover cost, “not even close.” Mr. Stump then said we should not be thinking about lowering fees. Mr. R. Miller asked whether planning fees covered one-third of cost, and Mr. Godlewski said no, each petition is different. Mr. Doriot asked whether the county overall is going user-funded, and Mr. Stump said that could be considered. Mr. Doriot then said that while fees of \$150 and \$500 make no difference to Al Ludwig, for example, those amounts are much more money to applicants seeking simple subdivisions such as those he mentioned above. Mr. Stump asked who should pay the fees in such cases, and Steve Warner said fees in the past have gone updated far too long and have not reflected actual costs. Mr. Doriot said, “You guys raise the fees on these people. . . . This is all costing everybody too much money.” He said building projects make builders and various named subcontractors, who are all



taxpayers, money. If the Board makes fees so expensive that owners and builders stop building, the various named subcontractors and tradespeople are affected via a tricking down. Mr. R. Miller said the question is, do users pay the fee or does the whole county pay the fee?

Mr. Godlewski reminded the Board that uniformity throughout the jurisdictions is what should be considered at this time. Mr. Warner said fee adjustment does bring uniformity and cited documentation stating that the building department cannot charge more than actual cost. A reasonable percentage of cost therefore must be recovered. He said he raised this issue because it is important that fees stay current and reflect a recoupment percentage appropriate for current conditions. Mr. Godlewski said a good personal goal is the recoupment of 50 percent of cost; 100 percent will never be achieved.

Mr. Burbrink asked whether Mr. Godlewski knew of any area in which Elkhart County's fees were dramatically out of line with those of the other jurisdictions. Mr. Godlewski mentioned annexation, for which Elkhart County will never have fees, and said some areas are built into building department costs and will not change. He said he does not know about the intentions of the other jurisdictions, but he has heard that Nappanee will slightly increase fees.

Mr. R. Miller said the actual cost of review for the splitting of a piece of property is unknown and stated determining it would be an astronomical undertaking, but Mr. Burrow said fees were reviewed in the past and the figures shown on the fee outline given to the Board reflect approximately one-third of actual cost. Mr. Warner said that though Mr. Doriot's comments were valid, Elkhart County and some of the smaller communities, with respect to building permits, are competitively priced in comparison to other jurisdictions, and "we do a good job of managing costs."

Mr. Kolbus asked whether some fees were assessed according to square footage, and Mr. Warner said, "They include everything—garage, porches, heated living space, anything that's conditioned."

Mr. R. Miller asked whether asking applicants to pay for one-third of the county's expenses was fair, and Mr. Kolbus responded saying his job was to make sure the Board conforms to state law by not taking in an amount that exceeds cost. He said the Board itself must make policy decisions. Mr. Stump said he would like the county's fees to be made comparable to those of Elkhart, Goshen, and Nappanee. Mr. Kolbus pointed out that there were some areas where the county charges twice as much as Elkhart, some areas where the opposite is true, and some areas where Nappanee charges one-third of what the county does, and added that "it might be hard to equate all these." Mr. Stump asked Mr. Godlewski whether a fee study investigating Goshen and Elkhart was performed, and Mr. Godlewski said yes, those 2 cities are aligned for the most part. Mr. Stump asked whether the same conversation should be had with "the other planners," and Mr. Godlewski said the document provided to the Board is the result of the start of that conversation.

Mr. Kolbus asked Mr. Godlewski whether the input he desired from the Board was an opinion regarding whether the county should move toward equality or toward 50 percent cost recovery regardless of other jurisdictions' fees, and Mr. Godlewski said yes. Mr. Campanello said he did not want to "go equal" with Elkhart and Goshen, as those cities will be raising fees anyway. The county should stay at 35 or 50 percent of cost, he added. Mr. Burbrink said the recovery should be within that range and that the document reveals the county is competitive in most categories. Doug Miller asked whether the figures on the fee outline document reflected 30 percent of cost, and Mr. Godlewski said yes, one-third. Mr. Campanello and Mr. D. Miller agreed that one-third was a good figure, and Mr. D. Miller added that the government should provide some value for tax

dollars. Mr. R. Miller asked for confirmation that the goal “is to keep our costs at a third of what the real cost is.” Mr. Burbrink said yes, and Mr. Godlewski said that was fair.

Mr. D. Miller indicated that the county is drawing from a much larger base of users than Nappanee, for example, so in theory Nappanee’s costs should be higher. Mr. Godlewski added that the county sees more subdivisions because of more development; whereas Nappanee sees more demolitions and special exceptions. Comparison of Nappanee and the county is difficult because of the differences. Mr. Campanello said he did not understand why the use variance fee and the Primary subdivision fee were the same, \$200, and Mr. Godlewski reminded Mr. Campanello that terms, processes, and lengths of processes differ among the jurisdictions and that the current fees reflect an “attempt to present it as equal as possible with cost and processes involved.”

Mr. Stump said the county receives requests for more money constantly and is not able to generate it. He said the county is attempting to generate money while balancing an unbalanced budget; the county is spending \$1 million more than it is taking in. This imbalance has been in place the past couple of years. He said every little bit helps, and the county will face more difficulties if nothing is done. A local income tax increase is planned as is a food and beverage tax. Mr. Stump said he understood Mr. D. Miller and Mr. Doriot, but “these are the realities of this ‘circuit breaker’ system that we’re under.” The county is allowed to collect a limited amount of property tax, and assessed values decreased recently. Until values increase substantially, the county has to find new sources of revenue, but tax caps have presented residential taxpayers with a tremendous bargain, while business owners, farmers, and property lessors have paid their fair share. Mr. Stump also said fees do not have to increase right now but may have to later.

Mr. Godlewski stated that Planning is an anomaly because along with the increase in economic activity has been an increase in permit issuance and application intake and the associated revenue. Planning has been doing better financially but is strained, doing more work with the same amount of resources.

Mr. Warner said the county receives the funds taken in, not Planning, and Mr. Doriot agreed. Mr. Doriot then asked Mr. Godlewski how many staff members Planning had 7 years ago, and Mr. Godlewski said the number was about the same as today’s with perhaps 1 more person. Mr. Doriot said we are all learning to work like we used to because the economy is recovering, the planning department must begin to streamline, but it may need to add that 1 person again.

Mr. Kolbus asked Mr. Godlewski whether he had the direction he needed, and Mr. Godlewski said yes.

#### 15. *2014 Planning Calendar*

Mr. Burrow and Mr. Kolbus told Mr. Burbrink that the 2014 calendar had to be adopted by the Board. Mr. Burbrink asked whether any major changes had been made, and Mr. Burrow said that holidays caused a few things to be moved.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump, that this request for adoption of the 2014 planning calendar be approved. The motion was carried with a unanimous vote.

16. *Evaluation: Chris Godlewski*

Mr. Burbrink said the executive committee met and discussed Mr. Godlewski's evaluation, and any Board member with concerns or questions should see Mr. Burbrink.

17. *Nominating Committee for 2014 Slate of Officers and Appointments*

Mr. Burbrink said a presentation will be made during the December 2013 Plan Commission meeting. Mr. Kolbus asked whether any changes to the Plan Commission would be made, and Mr. Godlewski said he asked Mr. Campanello to continue to serve. He has advised Kathy Wilson of this, and the membership should stay the same.

18. A motion to adjourn the meeting was made by Mr. Doriot and seconded by Mr. R. Miller. With a unanimous vote, the meeting was adjourned at 11:51 a.m.

Respectfully submitted,

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Daniel Dean, Recording Secretary

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Jeff Burbrink, Chairman