

MINUTES

ELKHART COUNTY PLAN COMMISSION MEETING

HELD ON THE 8TH DAY OF MAY 2014 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 Vice Chairperson, Roger Miller, with the following members present: Tony Campanello, Jeff Burbrink, Doug Miller, Roger Miller, Steve Edwards, Tom Stump, Frank Lucchese, and Blake Doriot. Steve Warner was 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/D. Miller*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 10th day of April 2014 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Doriot/Burbrink*) that the legal advertisements, having been published on the 25th day of April 2014 in the Elkhart Truth and the 26th day of April 2014 in the Goshen News, be approved as read. The motion was carried with a unanimous vote.

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

5. The applications for a zone map change from M-1 PUD to M-1 and for Primary approval of a one-lot minor subdivision to be known as **PROAIR MINOR SUBDIVISION** for **Koda Realty, LLC**, represented by Marbach, Brady & Weaver, Inc., on property located on the North side of CR 6, 940 ft. East of John Weaver Parkway, common address of 28769 CR 6 in Cleveland Township, were presented at this time.

Mark Kanney presented the Staff Reports/Staff Analyses, which are attached for review as *Case #28769County Road 6-140328-1* and *Case #28769County Road 6-140328-2*. Mr. Kanney also presented the Technical Committee Report for ProAir Minor Subdivision.

Chris Marbach, Marbach, Brady & Weaver, Inc., 3220 Southview Drive, Elkhart, 46514, was present on behalf of the petitioner, which would like to expand its building to create more warehousing area. Existing lot lines and an old PUD that was legislatively abandoned prevent this expansion, and the rezoning request is for a "clean-up to the zoning ordinance." Mr. Marbach also commented that the surrounding zoning is M-1 and that the subject property will be within Elkhart city limits and of no concern to the Board in eight months' time.

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 requests and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Douglas Miller, that the Advisory Plan Commission recommend to the Board of County Commissioners that the request for a zone map change from M-1 PUD to M-1 for *Koda Realty, LLC*, be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Douglas Miller, that the request for Primary approval of a one-lot minor subdivision to be known as *PROAIR MINOR SUBDIVISION* be approved in accordance with the Staff Analysis and as presented, provided the property is rezoned from M-1 PUD to M-1.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

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

6. The applications for a zone map change from a General Planned Unit Development-R-1 to a Detailed Planned Unit Development-R-1 to be known as *CAMDEN PARK D.P.U.D., R-1, SECTION ONE* and for Secondary approval of a 12-lot major subdivision known as *CAMDEN PARK D.P.U.D., R-1, SECTION ONE* for Windshire Corp. represented by Brads-Ko Engineering & Surveying, Inc., on property located on the North side of Waterford Street (CR 40), 3,200 ft. East of CR 1, and West side of Washington Street, 345 ft. North of Waterford Street (CR 40), common address of 400 W. Waterford Street in Olive Township, were presented at this time.

Duane Burrow presented the Staff Reports/Staff Analyses, which are attached for review as *Case #400WWaterfordSt-140331-1* and *Case #400WWaterfordSt-140331-2*, noting that the requests concern only the Southern portion of the area currently zoned GPUD-R-1. Mr. Burrow also noted that the petitioner is requesting adoption only of lots 1611, as Brads-Ko has not yet determined sewer and water easements on lot 12. Lot 12 will remain part of the PUD but cannot be platted at this time.

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth Street, Goshen, was present on behalf of the petitioner. He began by stating the GPUD was presented to the Commission in fall 2013, and an entrance from Waterford St. with lots on both sides was planned at that time. During the subsequent presentation of the GPUD to the Town Council of Wakarusa, homeowners who live along the South side of Waterford St., opposite the development, spoke against the plan for the orientation of the homes in the development, which provided that their backyards face the homes across Waterford St. Two Wakarusa Council members affirmed the homeowners' concern, and Mr. Pharis's reply then was that the Plan Commission would not permit that the homes face Waterford St. because they will have all these driveways.

The Town Council did approve the GPUD, but Mr. Pharis said he then spoke to Blake Doriot and the drainage board about the legal drain, which requires a 75 ft. setback, that runs through the subject property. Mr. Pharis said that sanitary sewer runs along the ditch and goes out to Washington St., that Wakarusa has a right-of-way with water running along the West edge of the

subject property and up to the park that adjoins the Northwest corner of the subject property, and that Mr. Doriot and the surveyor staff would like to maintain the 75 ft. ditch setback for cleaning. The GPUD as approved, though, would have required requests for reductions of that setback.

Mr. Pharis then said he asked the town engineer and town manager of Wakarusa to indicate their positions on the reconfiguration of the project given the two Council members' affirmation of the remonstrators' concern, and their position was that the facing of the lots directly on Waterford St. would be in the best interest of the town, as the street is in the town and the speed limit is 35 mph. The Town Council work session and meeting that followed, during which Mr. Pharis presented the reconfiguration, resulted in agreement that a plan showing all lots coming directly onto Waterford St. should be submitted.

Mr. Pharis then indicated the six existing homes at the Northwest corner of Washington St. and Waterford St., whose sanitary sewer connections cross the Easternmost extension, the area of lot 12, of the subject property. No documents or easements exist, however, that support the right of those homeowners to run sewer across the area in question, and the six individual connections make improvement of lot 12 difficult without major plan changes. Brads-Ko is working with the town to devise options that will not disturb the sewer connections across lot 12, but for now the plat will only show lots 1611, which will directly access Waterford St.

In addition, said Mr. Pharis, the town has asked that the water main running along the South side of Waterford St. receive improvements including an increase in size from four inches to eight and installation of fire hydrants on the North side. The town has also requested a sidewalk along the North side of Waterford St. and that we connect our sanitary sewer rather than go underneath and connect Brads-Ko is open to all these requests, the plan reflects them, and the plan is the result of what the Council wants and what the residents want.

Mr. Burbrink asked Mr. Pharis about the line on the Site Plan/Support Drawing running through lots 268 and mostly parallel to the 75 ft. drainage maintenance easement line, and Mr. Pharis said it indicated a Wakarusa-required setback for a "small retention area." Mr. Doriot raised concern over drainage tiles running under Waterford St. and stated, "I just want to make sure that there's something in here that states that the developer and/or the lot owners are responsible to maintain any tiles that come across" Mr. Pharis responded that the drainage tiles matter has already been raised by the Plan Commission and the Town Council and that a portion of CR 40 extending to the county line has been reconstructed. Conversation with the highway department and the drainage board resulted in a conclusion that no tiles running under the road and North to Wertz Ditch were present. "However," Mr. Pharis added, "we have found four tiles that empty into that ditch, and . . . we'll say it here for the public record: if we find any tile[s] . . . they would be rerouted." Mr. Pharis also said that the drainage board believes a pipe that runs North into the ditch is present, Mr. Doriot indicated agreement and his desire to get Mr. Pharis' tiling comments on the record, and Mr. Pharis repeated his commitment to reroute any tiles found.

Mr. R. Miller asked whether the plans for lot 12 were to be abandoned, and Mr. Pharis said no, but a solution must be found that will get sanitary sewer for the homeowners South of the lot. Mr. Pharis has suggested that the town "run a structure here [indicating the Southwest corner of the area of lot 12], a structure here [indicating an area just South of the Southwest corner of the area of lot 12], connect all those, and then either put it into the pipe there or put it back out to Washington St." Mr. Pharis said that his client should not have to pay for such an expensive solution, and neither

does his client want to tell the homeowners in question to get off sanitary sewer so that he can sell the lot.

Dorothy Getz, who resides at 65401 Cedar Rd., Wakarusa, but owns 413 W. Waterford St., Wakarusa, raised concern over "our drainage ditch going across the road." When sewer was put in, she said, "they were jumping a tile over . . . the sewer line or vice versa." Some water gets into the basement of her home, but other residents along Waterford St. and up to Washington St., whose homes are connected with the ditch, have had to use sump pumps to remove water from their basements. Mrs. Getz then quoted Mr. Pharis as saying connections to the ditch are established clear to the county line and added that she understands a pumping station has been installed at Westgate and at another "addition." The connection, she said, runs all the way to Holdeman Mennonite Church.

Mr. Doriot responded that the highway department did run a drainage tile along the North side of Waterford St. but that there is no connection that goes over to Holdeman Mennonite. A water main does run from a new water tower along the West boundary of the subject property, however. Mr. Doriot then restated Mr. Pharis's promise to maintain or reroute any tiles running from South to North through the new development, and Mrs. Getz acknowledged Mr. Pharis's promise.

Matt Schlabach, 201 N. Washington St., Wakarusa, also raised concern over flooding at his homesite, asking whether any building is planned on the area of lot 12, and Mr. Doriot repeated that development of the area is not part of this petition because of the sewer connections that run across the area. Mr. Schlabach then said that town sewage backs up into his basement and that despite assurance by a realtor upon his arrival in the area that the ditch floods only once every 100 years, his homesite has experienced flooding at least six times. He also stated his hope that in the event of building on lot 12, drainage would be provided at least to the rear of his property, directing water away from it. Washington St. easily sees six inches of water during a flood event, he said, because "we can't get rid of the water the way it is."

Mr. Pharis began his response to the concerns by citing plans for the benching of the segment of the ditch along the North side of section 1 of the development. The plans require IDEM input because while the floodway lies within the banks of the ditch, the flood fringe is in excess of the floodway. If the plans are approved and construction costs are reasonable, Mr. Pharis said, the ditch will be benched. Mr. Doriot said the ditch would become a two-stage ditch like Horn Ditch, and Mr. Pharis agreed. The ditch would be made to hold more water while at a slope of 3:1 or 4:1 to enable plantings. The cost of the benching plans is approximately \$20,000, the cost of the construction will be between \$60,000 and \$100,000, and Mr. Pharis's client has not yet determined whether he will spend that amount. The decision will depend on the availability of contributions from the town and the drainage board, but the benching itself could resolve Mr. Schlabach's flooding problems.

Mr. R. Miller asked whether the area of lot 12 is low, and Mr. Pharis said it is and it is in a floodway. Mr. R. Miller asked how a ditch that would provide drainage for the area could then be dug, and Mr. Pharis noted that the ditch flows to the West and that the plans provide that the ditch hold more water. Mr. R. Miller then expressed concern that the ditch would hold more water but not move it any faster, Mr. Pharis replied that it would hold more water, move it faster, and lower it, and Mr. Doriot agreed. Mr. Pharis then noted that West of the subject property, the ditch loops to the

North and backs up in that area. The plan for the ditch calls for water to be held East of the loop and then slowly released.

Mr. Pharis went on to say that while he hoped that the plan would benefit Wakarusa Missionary Church, which is East of the subject property, the problem lies with the tiles under Washington St., which are of limited size. Mr. R. Miller asked whether the development would increase flooding, and Mr. Pharis said no. Mr. Doriot then added that the development will generate less runoff than an area of only row crops, as a result of the density of houses and sodding, and Mr. R. Miller agreed, indicating a preference for larger lots in this development because of the lowness of the area.

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

The Board examined said requests 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 Town Council of Wakarusa that this request for a zone map change from a General Planned Unit Development-R-1 to a Detailed Planned Unit Development-R-1 to be known as ***CAMDEN PARK D.P.U.D., R-1, SECTION ONE*** be approved in accordance with the Staff Analysis and as requested.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Douglas Miller, that the Advisory Plan Commission approve this request for Secondary approval of a 12-lot major subdivision known as ***CAMDEN PARK D.P.U.D., R-1, SECTION ONE*** in accordance with the Staff Analysis, as presented, and with emphasis on the comments on the drainage.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

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

7. ***Sabnis, Inc.—Approval of Written Commitment***

Mr. Burrow reminded the Commission that its April 2014 recommendation for approval of rezoning for Sabnis, Inc., included a requirement for a commitment, which, in order to be effective, requires the signature of the chairperson of the Commission. Mr. Burrow asked James Kolbus who should sign the commitment on behalf of the Commission, and Mr. Kolbus said that Mr. R. Miller, vice chairperson, should sign in place of the absent Steve Warner, chairperson. Mr. Kolbus then reminded the Commission that a motion for approval of the commitment would need to be made.

The Board examined the written commitment prepared for Sabnis, Inc., and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Steven Edwards, that the Advisory Plan Commission accept the written commitment as presented and have the vice chairperson sign the written commitment. The motion was carried with a unanimous vote.

8. ***May 21, 2014, Educational Session***

Brian Mabry informed the Board that an educational session is planned for May 21, 2014, and distributed a flyer containing information about the session. He said that since Planning's new summer intern was to receive an overview of the work of the department, others should be invited. Other planning staff members; Kevin Williams, building commissioner; and Bill Hartsuff of Environmental Health will be invited to host question-and-answer time. The agenda will comprise 20 minutes for planning, 20 for zoning, 20 for platting, 20 for permitting, and about 30 for questions and answers. Plan Commission members, Board of Zoning Appeals members, design professionals, surveyors, and others are invited.

9. *Major/Minor Change for Price DPUD*

Mr. Burrow called Board attention to the amended site plan for Price DPUD and noted its location on the East side of CR 113, South of CR 6. He said the Plan Commission must decide the nature of the change, specifying that if it is major, a public hearing will be required. If it is minor, the Commission may simply grant the change.

Chris Marbach was present on behalf of the petitioner and familiarized the Board with the amended site plan, which shows existing structures, wooded area, and berming provided by the original DPUD. While the petitioner had originally planned to "have some smaller buildings come out the sides," low demand for space has resulted in an interest in expansion of building 1. The expansion would not affect drainage. And what is shown as building 6, while originally intended to comprise individual units, will now be a three-sided covered structure for parking. It will be for the same kind of storage.

Mr. Marbach also explained that at the time of building of the facility, the electric company placed a transformer at the Southwest corner of building 3. Though staff is concerned that the transformer violates the landscaping buffer, the petitioner requests that the transformer stay. Upon Board request for more detail about size and location, Mr. Marbach again specified the transformer's location and indicated it is knee high and approximately three ft. wide.

Lastly, while earlier plans called for an open covered storage area South of and adjacent to building 2, that area will now comprise uncovered outside storage, which will not be visible from CR 113 after building 6 is constructed. Mr. Marbach concluded by asking the Board to consider the change minor.

Mr. Lucchese, who has visited and used the facility, commented that as a result of his walk-through, he saw no issues resulting from the change. Mr. Campanello asked whether neighboring property owners needed to be informed of a minor change, and Mr. R. Miller said no. Mr. Lucchese added that the buffering is dense enough that the facility cannot be seen through it. Mr. Burbrink asked about the location of the line of trees shown in the photos that accompanied the amended site plan, and Mr. Marbach specified that the trees are represented on the site plan by the area shaded green North of and adjoining the homesite at the Southwest corner of the subject property.

The Board examined the Major/Minor Change for Price DPUD and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Douglas Miller, that the Advisory Plan Commission approve this change for Price DPUD as a minor change. The motion was carried

with a unanimous vote.

10. A motion to adjourn the meeting was made by Mr. Lucchese and seconded by Mr. Edwards. With a unanimous vote, the meeting was adjourned at 9:45 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman