

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 9TH DAY OF OCTOBER 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 Chairperson, Steve Warner, with the following members present: Tony Campanello, Jeff Burbrink, Doug Miller, Steve Warner, Roger Miller, Steve Edwards, Tom Stump, and Frank Lucchese. Blake Doriot was absent. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Mark Kanney, Planner; Liz Gunden, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Burbrink/Stump*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 11th day of September 2014 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Burbrink/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.

4. The application for a zone map change from M-1 PUD to M-1, for **LCM Realty VII, LLC**, represented by Marbach, Brady & Weaver, Inc., on property located on the West side of CR 35, 1,100 ft. North of US 20, in Middlebury Township, was presented at this time.

Liz Gunden presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 35-140902-1*.

Debra Hughes, Marbach, Brady & Weaver, Inc., 3220 Southview Dr., Elkhart, was present on behalf of the petitioners. She stated that the petition for redesignation is a result of staff advice. The subject property had been used by Shasta Industries and Coachmen Industries for RV purposes, and Lippert Components is in the same general business. Mr. R. Miller asked Ms. Hughes whether she had any concerns over the staff's recommendations, and she said no.

Chase Schmucker, 56775 CR 35, Middlebury, owns the property at the Northeast corner of the subject area, on the Northeast side of the proposed drive that will provide access from CR 35. He said that he is worried about whether a noise buffer between his house and the new drive will be present and that he has an easement "of the South 60 feet from my property." A fence that would extend "from the road to the back," according to a Lippert Components representative, Mr. Schmucker said, would prevent access to the outbuilding at the Southwest corner of his property, and he asked whether the rezoning would cause any changes to the easement. He then clarified for Mr. Campanello that the doors to his outbuilding are on the South side and added concern over commercial traffic at 4:30 a.m.

In response to Mr. Schmucker, Scott Kessler, 614 E. Main St., Warsaw, project manager for Lippert Components, stated no fence along Mr. Schmucker's drive is needed at all, as a fence is already present West of his outbuilding. He said that installation of a gate on "the West end" of the fence might be needed but also said that there is a gate there now that might need to be enlarged for accessibility. The project should not interfere with Mr. Schmucker's 60 ft. easement, and he will

have access to his garage, Mr. Kessler said.

Steve Warner asked how much early-morning traffic is anticipated, and Mr. Kessler said he thought frame shipments began around 6:00 a.m. or sometimes 5:00 a.m., depending on production and demand. Approximately 15 trucks would leave the property per day, and they would be present only until 2:00 p.m. or 3:00 p.m., as there is not a lot of volume right now.

Mr. Burbrink asked whether the portion of the property at question was to be primarily a truck exit, and Mr. Kessler said it was. Access to US 20 via CR 35 is safer for Lippert drivers and others, he said.

A motion was made and seconded (*R. Miller/D. 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** Roger Miller, **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 M-1 PUD to M-1 for **LCM Realty VII, LLC**, be approved in accordance with the Staff Analysis and with the following commitments imposed:

1. The entire perimeter of the subject property excepting adjoining parcels owned by LCM Realty VII, LLC, and frontage on public highways must remain screened from adjoining residential properties as existing on the property at the time of submittal of the rezoning petition (September 2, 2014), with the following exception:
 - a. LCM Realty VII, LLC, will construct a fence and gate West of the property at 56775 CR 35, Middlebury, in a manner that will allow that property owner (56775 CR 35, Middlebury) to continue to access his accessory building from the South side of his property.
2. All parking areas, driveways, private roads, and alleys throughout the subject property must be dust-controlled surface.
3. All lighting of the real estate must be directional onto the property, and no outside public address system is permitted.
4. No excavation or excavating work will be permitted in any part of said property except for the purposes of constructing improvements and retention areas.

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

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

** It is noted that Steve Edwards stepped down from the Board at this time due to a potential conflict of interest.*

5. The application for a zone map change from A-1 to a Detailed Planned Unit Development B-3 and Detailed Planned Unit Development R-1 to be known as **WAVE EXPRESS DPUD**, for Outer Limits Enterprises, LLC, represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of US 33, 732 ft. North of CR 40, in Elkhart Township, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #000US 33-140902-1*.

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth St., Goshen, was

present on behalf of the petitioner. He began by saying that just about anyone in Goshen knows the location of the old McIntosh nursery, which continued to operate after the announcement that it would close. Outer Limits bought the property in 2013.

The single-family residence at the far Southwest corner of the property will remain and be remodeled, and the subject property will receive a new septic site and repair site. The existing well will be abandoned and a new one put in. A Wave Express employee will live in the residence, which appears on proposed lot 2 of the DPUD, but later the residence could be rented or sold.

The existing retail building immediately North of the residence will be remodeled and expanded and used as office area and for retail sales of RV and truck accessories. An existing building near the center of the subject property will be expanded to accommodate a small truck-and-RV service center for oil changes and the like. Sweet Corn Charlie's, Mr. Pharis said, has and will continue to set up a tent in the Northwest corner of the West portion of the subject property.

The owners of Wave Express, an RV transport company, have operated the business since 2005, and the entire rear area of the property, which is surrounded by single-family residences, will serve as RV storage area. Along the North, East, and South boundaries of the property is proposed a "six-foot-high berm," with 3:1 slopes, which allow the planting and mowing of grass. Arborvitae five to six ft. in height will be planted along the berm's flat top, and this, Mr. Pharis said, will result in initial screening 10 to 12 ft. in total height. Arborvitae grow rapidly up and out, at a rate of one ft. in height and width per year, and after two or three years the arborvitae will have grown together and produced a screen with total height of 14 to 15 ft. The trees grow to a maximum height of approximately 20 ft.

No lighting is planned for the storage area, Mr. Pharis continued, a gate will be installed allowing entry and exit to and from the storage area, and all traffic will come and go via US 33. INDOT's analysis reveals that Wave Express will generate less traffic than did the nursery.

Mr. Pharis then said that he sent a letter to all landowners within 500 ft. of the subject property explaining the plan and asking for input. Two responses seeking clarification were received. All directly adjacent homeowners received another letter explaining the Wave Express owners' offer, at their own expense, to plant and maintain a fruit-bearing tree at each adjacent homesite. Mr. Pharis also indicated the green space between the berm and the South, East, and Northernmost North property lines and said that the berm's maintenance, performed at the owners' expense, will include mowing, trimming, and replacement of any arborvitae that do not survive.

Mr. Pharis went on to indicate that Elkhart County's RV industry, whose success Wave Express has contributed to, has moved unemployment from double-digit figures to 5 or 6 percent, and the owners "will take every step to protect their neighbors." The business will not emit odor, noise, or nearby-property-disturbing light, Mr. Pharis said, and stated agreement with the Staff Analysis.

Mr. Campanello asked about the working hours and the hours during which chassis would be brought in and out of the property, and Mr. Pharis first mentioned that the storage area would contain finished product, not chassis, and be like a parking lot. Delivery and removal would occur between 5:00 a.m. and 7:00 p.m. Mr. Campanello then asked what types of RVs would be stored, and Mr. Pharis responded towable only.

Mr. R. Miller asked where along the berm a fence would be placed, and Mr. Pharis clarified that no fence along the berm is planned. He stated the owners believe fences do not deter bad people and lighting simply gives them a better look at the product, and he added that lighting is what is

most grievous to homeowners. Almost all buildings close to US 33 will be lighted, however, and additional screening will separate the West retention area from US 33. No vehicles will be visible from US 33, then; a retail business is all that will be apparent, Mr. Pharis said.

Mr. Warner asked Mr. Pharis whether a turnoff blister on US 33 is planned, and Mr. Pharis's response was that the segment of US 33 in question will be reconstructed in the near future. A bump-out for Southbound traffic now appears on the West side of US 33, opposite the subject property, and Brads-Ko is now providing data to INDOT that will result in a decision about the sufficiency of the bump-out. INDOT asks that no passing blister be built unless the current area of the bump-out is demonstrated to be not wide enough to allow a turning car and a passing car simultaneously. INDOT, Mr. Pharis said, might decide the blister area is wide enough and wait to address the area at the time of US 33 reconstruction. Only one entrance from US 33 is planned.

Richard Behrends, 65683 Buttercup Ave., Goshen, who lives North of the subject property, stated he never saw public notice of a plan for towables parking at 16363 CR 138, Goshen, at the North end of Tropicana Ave. That parking area was a cornfield at the time of his arrival in Goshen two and a half years ago, he said, and the towing of towables by heavy-duty diesel trucks to and from the site causes a bottleneck at the intersection of CR 138 and Tropicana Ave. for drivers leaving his subdivision. He also expressed concern over whether the portion of CR 138 in question would continue to receive maintenance five years from now.

Mr. Behrends countered Mr. Pharis's noise, odor, and light representations by stating that what will tow vehicles to and from the Wave Express property are big diesel trucks that will make light, when their lights are on in the morning, as well as noise and stink. He also said that arborvitae is not a very nice looking plant and that if the owners want to do everything in their power to shield the surrounding homesites from sound and light, a 15 ft. masonry wall is needed. During the two years of arborvitae growth, he and other property owners will be living with headlights, noise, and decreased property values. He concluded by imploring the Board to take to heart his desire that the use at question not be allowed in the neighborhood, a quiet neighborhood that he loves, stating that there are existing parking units present on US 33 that the owners can use, and asking why improvements, including the repair shop, are being made ahead of plan approval "as if it's a landed deal."

Juan Machuca, 16314 Daisy Ave., Goshen, distributed to the Board a 28-page printout *[attached to file as Remonstrators Exhibit #1]* of a slide presentation and said he was one of those who responded to the Brads-Ko letters. Opening his slide presentation, he summarized the Wave Express offerings to owners of surrounding properties, which include, he said, a "four-foot berm," and said that what Wave Express is trying to do is recognized and appreciated but falls short. He represents the James Place subdivision and others whose properties border it, he said, and has submitted a petition in opposition to the project containing 58 signatures. The "real" reasons for opposition to the project include increased traffic congestion and noise pollution, decreased air quality and aesthetics, and threatened community safety.

Mr. R. Miller asked Mr. Machuca whether he has performed any traffic study that would predict an increase in noise pollution, and Mr. Machuca said he has not. Adding truck traffic to a site that is now only farmland automatically causes an increase in noise pollution, he said. He then raised "potential" concerns, which include those over ground contamination, property values, crime, light, and property degradation.

Addressing traffic, Mr. Machuca said that US 33 South of Goshen is horrible. Keystone RV

and Lippert Components have locations North and South of CR 138, Forest River has a location North of CR 138, and US 33 is gridlocked during employee arrival and departure times. Within 1.2 miles of James Place lie eight existing tow-away lots, marked on an aerial photo he distributed to the Board [attached to file as *Remonstrators Exhibit #2*]. A change in “the speed of the traffic patterns,” only one entrance-and-exit location for the business, and medium- and heavy-duty trucks slowly exiting the location will add to US 33 gridlock, especially given the presence of the area’s existing manufacturing facilities and eight existing tow-away lots, he said.

Addressing noise pollution and indicating the photo on slide 6 of his presentation, Mr. Machuca said that many types of trucks, including tractors, will be used for towing and that with the coming cold weather, the trucks’ diesel engines will have to continually run to stay warm. He also said the hours of operation given by Mr. Pharis during his presentation contradict those given in his letter to owners of surrounding properties, “24 hours a day, seven days a week,” according to Mr. Machuca. He also warned of noise generated by traffic on interior gravel lanes.

Turning to air quality, he said that the proposed arborvitae will do little to protect the “170 homes in total that will surround this . . . lot” from dust and noise and that the effect of fumes from trucks 250 ft. away from one’s back door is different from that experienced when sitting behind such trucks in traffic.

Mr. Pharis’s letter referenced a mound four to five ft. in height, Mr. Machuca said, turning to the subject of aesthetics, but the detailed plan calls for a mound four ft. in height. The height only approaches five ft. if the “gully” depth is added. He also disputed the proposed width of the mound, saying that the cross section diagram indicates a width of 20 ft. and a width of 30 ft. simultaneously, and asked whether the height of the proposed arborvitae at planting includes the root height before planting. Mr. Machuca then quoted an article cited in his slide presentation that states arborvitae grow to a maximum width of only three ft., which will result in two ft. of space between mature trees, through which RVs will be visible. A typical fifth-wheel is 13 ft. in height, added Mr. Machuca, who has worked in the RV industry for 22 years.

Mr. Machuca then expressed concern over the absence of a fence, saying there is nothing in the plan that would keep trespassers off homeowners’ properties and the Wave Express property, which will contain a “24-hour-a-day, seven-day-a-week operation, and these people are coming from all over the country.” He quoted an *Elkhart Truth* article, cited in the slide presentation, covering theft of catalytic converters, which contain precious metals, and warning RV transport companies about such theft, which is left undeterred absent lighting and a fence, Mr. Machuca said. He also regretted the lack of a requirement that Michiana RV lots have “extensive security.”

Mr. R. Miller asked Mr. Machuca whether he was asking for a fence, and Mr. Machuca said he was. Mr. R. Miller then clarified that the storage will be of finished product, not chassis, and Mr. Machuca acknowledged that the storage will be of tow-aways, which have underbodies of soft material that allow access to copper wiring and the TVs and other electronics inside the RVs.

Mr. Machuca then raised potential effects of the new business, which include ground contamination caused by tractor-trailer fluid leaks. They include also reductions in property values regardless of the proposed landscaping because of the “stigma when it comes to RVs” and an increase in crime in a neighborhood that has recently seen break-ins and tire slashings. He mentioned also eventual light disturbance, as RV lots of the proposed size always have lighting. He said the addition of lighting would simply be a matter of approaching the Board later with a request for it, at a time when the neighborhood does not have much of a say.

Another potential effect, degradation of the subject property, is anticipated because of “trust issues.” Mr. Machuca indicated photos on slide 13 of his presentation as evidence of a lack of “[commitment] to the efforts that were presented due to the current upkeep of an active facility.” The photos, Mr. Machuca said, document the condition of a Wave Express facility in Benton Township marked by a bent and rusted fence, trailers surrounded by weed growth, and fences overtaken by weed growth. “When they say they’re going to maintain it, I have reservations on that,” he stated.

Additional trust issues have arisen because RV parking at the site began a month and a half ago. Neighborhood residents called to complain, and the units vanished, but parking was resumed about two weeks ago. Slides 14, 15, and 16 of Mr. Machuca’s presentation document the parking ahead of project approval and the proximity of parked RVs, some of which were delivered the night before the photos were taken, to neighbors’ property lines.

Moving on to the Staff Report, Mr. Machuca indicated approval reason A and disputed comprehensive plan compliance, saying the project fails to incorporate or harmonize with the James Place neighborhood and redevelop or reuse commercial or industrial sites. He said that many area tow-away lots were established on existing commercial sites and did not know why Wave Express needed “to come in the middle of 170 homes.” Continuing to cite the comprehensive plan, he read another of its goals, which is that residential communities be protected from conflicting land uses. The proposed berm and trees do not ensure that protection, he said, because of the doubt raised by the condition of the Benton facility.

Approval reason B is partly factual, Mr. Machuca then said, but the role of the agricultural zone is to protect agricultural operation from conflicting uses, and the subject property’s current condition is encompassment by 170 residences. No other similar business is surrounded by so many homes. The McIntosh nursery constituted low-intensity retail, and its operation contributed to residential enhancement, while Wave Express constitutes an out-of-place, high-intensity use that offers nothing to the general public or surrounding community that improves quality of life or property values.

Addressing approval reason C, he disputed promotion of desirable use by citing a comprehensive plan goal of safe movement of people and commerce and restating his above gridlock comments. He also distributed to the Board a printout of a Craigslist advertisement [*attached to file as Remonstrators Exhibit #3*] indicating the availability of a 29.85-acre commercial tract on US 33 that has frontage on three roads. Mr. Machuca questioned the assertion of approval reason D by restating the buffer proposal, again comparing the proposal with the poor condition of the Benton facility and asking, “If the RV industry is on a high right now, what happens when the lot cannot be filled?” as the industry is highly active only three or four months during the year. He then read approval reason E and asked why the subject property could not be farmed or occupied by an addition to James Place, a park, or a true retail project for the general public.

Mr. Burbrink asked Mr. Machuca for his view of the best use of the subject property if not agricultural in light of the transition the area is undergoing, and Mr. Machuca said homes, if any. There is money to be made, he said, when half-acre homesites can be created from the 14.2-acre subject property.

The concerns of Robert Carlile, 16334 Daisy Ave., Goshen, who lives next door to Mr. Machuca and whose property adjoins the subject one, included the lack of a fence in the plan, which would prevent drivers from entering his property during the summer and stealing produce from his

garden, and the availability of the commercial tract Mr. Machuca suggested the owners consider, which is 1.4 miles North of the subject property, has frontage on US 33 and Eisenhower Dr., and contains plenty of square footage and two existing buildings, one of which contains a 300 × 100 work area with bays. The tract already has a perimeter fence, has already been used for RV storage, but is now up for sale “because it didn’t go.” “Once you take away agricultural-zoned land you can’t refarm it later,” he added. “I know as a human being I can survive without RV storage, but I can’t survive without food,” he concluded, lamenting the rezoning of farmland.

April Ewald, 65785 Tropicana Ave., Goshen, who lives in the house pictured at the bottom of page 5b of the Staff Report and has worked at a truck stop, commented on the nastiness of many truck drivers, who leave urine-filled bottles in parking lots and might relieve themselves on bushes in view of her grandchildren. She was afraid there would be no “definitive separation” and said that though the McIntosh nursery experienced traffic, it wasn’t in the neighbors’ backyards. The radio playing in the McIntosh building could be heard during the summer by nearby homeowners whose windows were closed, she added, “so now you multiply that by all these trucks coming and going, a mound of dirt is not going to stop that noise.”

Carrie Zickefoose, 16406 Daisy Ave., Goshen, is a mother whose property adjoins the North property line of the subject area and whose children play with those of her neighbor in her backyard. She said that having McIntosh in her backyard feels different from having RVs in her backyard and that at no point has she ever desired a fruit tree, the offer of which she finds offensive. She concluded with the hope that the integrity of her home and property and the well-being of her family and neighbors would be maintained.

In response to the public, Mr. Pharis said first that the property on CR 138 indicated by an above remonstrator has nothing to do with his clients. They neither own nor operate it. The property in Benton Township referenced above is space that Wave Express has rented while preparing the subject property, and the landlord of the rented space is supposed to be taking care of it, he said.

The land on which James Place now appears, an 80-acre area, used to be farm ground, and the 170 homes supplanted that farm ground at the time of the James Place project. Turning the subject property into residential space would require a stub street allowing access from James Place and a past plan permitting the development. The subject property is landlocked, he said, and the 170 homes had a greater impact on grocery expenses than the subject 14 acres will.

Addressing traffic, Mr. Pharis repeated that the existing US 33 entrance will see less traffic during Wave Express’s use than it did during McIntosh’s, even if Sweet Corn Charlie’s numbers are included. Only 10–20 vehicles will be moved to and from the rear parking area per day, and no semi traffic is intended. The proposed gate will not admit semis. Only three-quarter-ton pickups will haul the towables. Thus no impact on James Place traffic is anticipated, and though there will be some impact on US 33, INDOT, he repeated, will improve it in the next few years.

Mr. Pharis said he would not have represented his clients had they wanted to place a manufacturing plant, which would require such things as lighting, a large building, and noise, on the subject property. Instead, traffic comprising 20 trucks per day, some of which will have diesel engines, is planned, and the trips are one-day hauls, as the owners are based in Michigan.

Regarding Mr. Machuca’s concerns over a lighting plan that can be easily changed, Mr. Pharis said he recommended that a DPUD be brought before the Plan Commission so that public input could be received should the owners later desire to deviate in any way from the plan. But the owners do not want lights, which advertise the location of vehicles for the bad guys, and do not

want a fence, as the mound and the arborvitae are believed sufficient security.

Mr. R. Miller then asked Mr. Pharis to address theft of catalytic converters and say how many chassis would be present onsite at a time, and Mr. Pharis said 100 or more could be supported but that the storage will be of towables, from which only microwaves and TVs could be taken. "My clients feel that it is cheaper to replace a microwave oven and a possible TV than to replace a vehicle," he commented. He said the property should be made to look like what it isn't, not what it is, a parking lot.

Mr. Pharis then responded to the claim that his clients have fallen short, saying that his clients have in fact gone overboard with their suggestions, especially in regard to lighting. Other RV haulers Mr. Pharis has represented wanted basically ugly sites featuring barbed-wire-topped chain-link fences and lighting. The Wave Express owners, who have nine years' business experience, own the property and want to make it look good and work well.

The impression of the surrounding homeowners, that the existing buildings can be torn down, a new entrance from US 33 can be built, and residences can be placed, is unrealistic, Mr. Pharis also commented, adding that the offer of a fruit tree is only an offer and does not have to be taken and that maintained green space will appear on the East side of the mound. Regarding the proposed trees, Springbrook, a Goshen subdivision, is one screened by good examples of fully grown-together, beautiful arborvitae, Mr. Pharis said.

Mr. R. Miller then asked Mr. Pharis to address berm height and width, and Mr. Pharis responded that his correspondence to homeowners said it was going to be "five to six feet, undulating," which he likes more than a straight top. The owners will have to live with what is on the plan, and all retention is on the Wave Express side of the berm. A mound five ft. in height and arborvitae five ft. in height will result in a screen starting height of 10 ft., and a mound six ft. in height and arborvitae six ft. in height will result in a screen starting height of 12 ft., "so you're at 10 to 12 feet at the very beginning." Mr. Pharis also addressed Mr. Carlile's statements, saying he would be surprised by any theft of Mr. Carlile's garden produce, as truckers would have to scale the mound to get into his yard.

Anita and Dorian Carpenter, owners of Outer Limits Enterprises, 67952 US 33, Goshen, came forward in response to Mr. R. Miller's further query about storage of motorized chassis, and Mrs. Carpenter said that only motorized units use catalytic converters and that the storage at question will be of towables only. Mr. Campanello asked whether semis would be going into and out of the property, and Mrs. Carpenter said, "We have one." Mr. Carpenter specified that it is a haul-and-tow; one unit is placed on the truck bed and one is towed. "Generally he picks up at the factory, but when we get to month-end issues, when everything's got to be off within a day, that's some of the reasons why we needed the local lot." He said Wave Express usually picks up from factories and is "a dealer-owned company or dealer pickup," adding that "we do not work for manufacturers, so we work for a group of dealers."

In response to Mr. R. Miller's request for further information about operating hours, Mrs. Carpenter explained that because of factory needs, the company is a 24-hour-per-day, seven-day-per-week operation the last two or three days of the month. Most of the trailers to be stored at the subject property are destined for Michigan, Cleveland, Chicago, and Wisconsin, and day-trips comprise over 50 percent of Wave Express business. Drivers pick up between 4:00 a.m. and 5:00 a.m. so they can arrive at dealerships around 9:00 a.m. Mrs. Carpenter then clarified that the subject property will store some "longer-haul product . . . , but those [drivers] pick up once a week."

Operation hours are normally “five to seven,” and Mrs. Carpenter could not say that the hours would not extend beyond that.

Mr. Campanello then asked Mr. Pharis to say what the other possible uses are for the subject property, which is zoned A-1, and Mr. Pharis replied that residential use is not an option given the acreage and lack of a connection to the existing subdivision. Installation of a manufacturing plant is the other solution, Mr. Pharis said. Mr. Campanello then asked what use is possible that would retain A-1 zoning and be detrimental for homeowners, and Mr. Pharis said chicken coops. “To get where we are today” would require rezoning with commitments or a DPUD, he noted, the latter of which he chose for greatest possible protection of adjacent properties, and Mr. Campanello stated that made sense.

Mr. D. Miller asked Mr. Pharis whether he knew when James Place was platted and started, and Mr. Pharis said he did not and said Brads-Ko had nothing to do with its platting. An unidentified audience member stated 1987 or 1988, and Mr. Stump agreed, though he thought it might have been before. Mr. Pharis said also that the project has been under way for 11 months and subject to slow responses from INDOT and the state health department, as the septic system plan requires state review and sewer is not available.

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

Mr. Campanello commented on the toughness of the Plan Commission’s task and asked what the surrounding homeowners’ reaction would be to a farmer’s purchase of the subject property for a use such as a hog farm. Mr. Warner stated that the current DPUD is what must be considered instead. Mr. R. Miller commented that Mr. Pharis did well to propose a detailed plan and said that though he saw areas of concern, he also saw no failure by the owners to comply with any law. Mr. Stump commented that the proposal would substantially affect the way residents of the subdivision live. The biggest change the project will bring to neighbors will be the presence of one-ton diesel pickup trucks, which make more noise than semis, at 5:00 a.m. or 8:00, 9:00, or 10:00 p.m., he said, and no sound barrier will be sufficient to suppress the noise of the trucks. He concluded saying he could not support the proposal.

Mr. R. Miller expressed concern over future maintenance of the subject property in light of the photos presented by Mr. Machuca documenting the rented Benton Township site. Mr. Burbrink responded that upkeep depends on the rental agreement, the details of which are unknown to the Plan Commission, between Wave Express and the site’s landlord. Lack of maintenance could be the landlord’s fault, and the Commission’s job is to say whether the use at question fits the subject property. Had the request been to rezone to “B,” said Mr. Burbrink, then there would be a lot of questions, but the decision to bring the request in as a DPUD, which will limit the number of possible uses, was smart, he concluded.

Mr. R. Miller said that the A-1 zone limits possible uses, in the event of an industry downturn. Mr. Kolbus agreed that in the A-1 zone uses are limited to those permitted by the zone and that the DPUD requires that changes be brought to the Plan Commission. Mr. D. Miller said that during the 30 years since the inception of James Place, more rezonings than the one at question have impacted it. All growth on the South side of Goshen has impacted it, he said. Mr. R. Miller said that the growth has included manufacturing, and Mr. Burbrink agreed that the area is in transition.

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

Motion: Action: Approve, **Moved by** Douglas Miller, **Seconded by** Roger Miller, 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 B-3 and Detailed Planned Unit Development R-1 to be known as **WAVE EXPRESS DPUD** be approved in accordance with the Staff Analysis.

Vote: Motion failed (**summary:** Yes = 3, No = 4, Abstain = 0).

Yes: Douglas Miller, Roger Miller, Steve Warner.

No: Frank Lucchese, Jeff Burbrink, Tom Stump, Tony Campanello.

Absent: Steven Edwards.

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller, that the Advisory Plan Commission forward this request for a zone map change from A-1 to a Detailed Planned Unit Development B-3 and Detailed Planned Unit Development R-1 to be known as **WAVE EXPRESS DPUD** to the Board of County Commissioners with no recommendation.

Vote: Motion passed (**summary:** Yes = 6, No = 1, Abstain = 0).

Yes: Douglas Miller, Frank Lucchese, Jeff Burbrink, Roger Miller, Steve Warner, Tony Campanello.

No: Tom Stump.

Absent: Steven Edwards.

** It is noted that Steve Edwards returned to the Board at this time.*

** It is noted that Doug Miller stepped down from the Board at this time and was not present for the remainder of the meeting.*

6. *Three Oaks, LLC (Owner), and Grand Design RV, LLC (Operator)—Approval of Written Commitment*

Mr. Mabry at this time requested the Plan Commission chairperson's signature on a commitment form prepared for Grand Design following September 2014 Plan Commission recommendation of rezoning approval. He also reminded the Commission of the content of the September 2014 meeting and the commitments imposed. Mr. Kolbus mentioned that a motion that the commitment form be approved was required.

The Board examined the commitment form, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller, that the Advisory Plan Commission approve the commitment form prepared for Grand Design RV, LLC, and presented by Mr. Mabry. The motion was carried with a unanimous vote.

7. *VIM/Soil Solutions—Major/Minor Change*

Soil Solutions Co. has presented a proposal for a change to its DPUD, a replacement of an existing 32 × 8 scale house with a 64 × 12 one, Mr. Mabry said. The information packet distributed to the Board contained the request letter from Michael Baum, Soil Solutions representative, and pages depicting the existing and proposed scale houses.

Mr. Edwards and Mr. Lucchese asked Mr. Mabry to confirm that the new building would be

for the same purpose, and Mr. Mabry confirmed.

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

Motion: Action: Approve, **Moved by** Steven Edwards, **Seconded by** Roger Miller, that the above-described change to the Soil Solutions DPUD be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

8. *Africa Inter-Mennonite Mission—Major/Minor Change*

Mark Kanney at this time distributed to the Board a five-page packet [*attached to file PC 88-67 as Staff Exhibit #1*] whose first page is a staff major/minor change recommendation titled “Request for Decision: Major/Minor Change.” The parcel in question is zoned B-2 PUD, and the owner, Africa Inter-Mennonite Mission, requests a change to the use of the building onsite. The packet contains also a copy of the petitioner’s request letter, a copy of an ordinance amendment, a copy of a site plan, and a modern GIS printout.

Rod Hollinger-Janzen, executive coordinator for Africa Inter-Mennonite Mission, PO Box 744, Goshen, said that the building in question, whose address is 59466 CR 113, Elkhart, has been up for sale for several years. A prospective buyer, whose business is musical instrument sales, would like to lease the building for up to 12 months to test the location before any rezoning is requested. No changes, he said, will be made to the existing building.

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

Motion: Approve, **Moved by** Roger Miller, **Seconded by** Tony Campanello, that the above-described change to the Planned Unit Development with ordinance no. PC 85-33 and amendment ordinance no. PC 88-67 be considered a minor change and be approved by the Advisory Plan Commission. The motion was carried with a unanimous vote.

9. *SR 13 TIF*

Mr. Godlewski stated that present today was Craig Buche, representing the county redevelopment commission. A recommendation for a new TIF district, bordered partially by the state line, the East county line, and CR 4, was made by a landowner member of the commission, he said, and summarized the needs to be fulfilled as those for sewer and water.

Mr. Kolbus reminded the Board that its task was to determine the proposal’s conformity to the county’s plan of development and that its members must separate consideration of the proposal from their feelings about TIFs.

Craig Buche of the county attorney’s office, 130 N. Main St., Goshen, said that a declaratory resolution, an economic development plan, and a report [*attached to minutes*] were provided to the Board members, and distributed to the Board a Jones Petrie Rafinski–prepared map [*attached to minutes as Petitioner Exhibit #1*] outlining the area in question.

Mr. Buche then summarized the process of TIF district creation, which begins with the redevelopment commission’s receipt of a proposal, consideration of the area’s boundaries and development plan, and approval of a declaratory resolution. The Plan Commission must then determine whether the district conforms to the county’s development plan and forward any recommendation for approval to the Board of County Commissioners. The proposal then must appear before the redevelopment commission again during a formal public hearing with notice to

taxing entities, and the commission must consider a confirmatory resolution, which would establish the district, at that time. At the time of establishment, the redevelopment commission would implement the plan of development.

Grand Design RV, which has a location on CR 2, initiated this project and is working with the redevelopment commission, the regional sewer district, and White Pigeon to bring sewer to the proposed district, Mr. Buche explained. The area in question is a long-standing industrial area and is a good area for development because of SR 13 and toll road access, but industry has been limited by lack of utilities. Jones Petrie Rafinsky (JPR) performed a utility study for the area that resulted in a utility master plan, and the area was named among those not in a city or town for which access to utilities is a high priority. Sewer is a focus of the development plan, and phase 1 of the sewer component is bringing it to the area, while phase 2 is its expansion within the area as needed. Road improvement projects are needed at the intersection of Greenway Pkwy. and the toll road entrance and at the intersection of CR 4 and SR 13, and widening of CRs 2 and 4 is needed as well.

Mr. Buche went on to address gateway areas, those areas of entry into Elkhart County, the appearance of which is also important to the redevelopment commission. The commission has already focused on the Northwest gateway TIF district, which is near Ash Rd. in the area of Walmart, and has said that if it is asked to participate in the addition of water and sewer to a district, gateway aesthetics must be a focus as well. The total cost of the projects is approximately \$6.25 million, and TIF districts are generally established for 25-year terms. The approach of the Elkhart County redevelopment commission has been to close a TIF district at the time of project completion and return the assessed value to the taxing entities, and two TIF districts have been closed, Mr. Buche said. He also said that the Northeast TIF district has seen a reduction in size twice, each reduction having come after a 10-year period.

Among comprehensive plan focuses are planned growth and orderly development connected with highways, Mr. Buche continued, and in a perfect world, the area in question would not have been considered a good one for an industrial complex, as it is not in or near a city or town. The proposed district addresses growth that has already occurred, and the need for utilities is based on this existing growth. He noted that addition of utilities in the area, then, would not be inconsistent with the concept of planned growth because of what is there now.

Another comprehensive plan focus is promotion of interjurisdictional efforts, and the county redevelopment commission works with many jurisdictions on projects. For the TIF district in question the commission is working with a jurisdiction in another state, White Pigeon's, and with the county regional sewer district. Other county agencies involved are Highway, the Plan Commission, the Board of County Commissioners, and the County Council. Financial participation is also expected from private developers and businesses. Rules governing TIF districts have changed this year, and local legislative bodies now have significant redevelopment commission oversight. The function of the Elkhart County Redevelopment Commission will not see much of a change, though, as it has "always operated through and with the participation of the Elkhart County commissioners." Appropriation requests have always been brought to the county council, he said.

Addressing the comprehensive plan's interest in environmental stewardship, Mr. Buche explained that the proposal brings sewer to an area served by septic systems, which cannot function indefinitely. The use of septic systems limits expandability of businesses, and among those now undergoing expansion are Grand Design and Champaign Metals. Mr. Buche also addressed the focus on an efficient transportation network, commenting that the proposed improvements are

appropriate in the subject area, which is served by US 20, SR 13, and the toll road. He then clarified that his request is that the Plan Commission forward the form of order to the Board of County Commissioners with the finding of the proposal's consistency with the comprehensive plan.

Mr. Campanello and Mr. Burbrink agreed that the improvements are needed, and Mr. Burbrink asked whether any consideration has been given to the sewer extension's ability to support further development. Mr. Lucchese, who is a member of the regional sewer district board, said that such consideration has been given, and Mr. Buche added that the first sewer extension phase includes plans for an oversized lift station and repeated that the second phase comprises extension throughout the subject area.

The Board examined the declaratory resolution, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Steven Edwards, that the Advisory Plan Commission affirm Resolution 2014-13, Declaratory Resolution of the Elkhart County Redevelopment Commission Establishing the State Road 13 Interchange TIF District, and issue a Written Order approving the Declaratory Resolution, Economic Development Plan, Factual Report, and attachments thereto for the State Road 13 Interchange TIF District (see attached), with the Chairman or Secretary of the Plan Commission to sign the Written Order upon review by the staff and Board Attorney. The motion was carried with a unanimous vote.

10. *2015 Plan Commission and Board of Zoning Appeals Calendar*

Mr. Mabry first explained that the calendar does not usually need much adjustment because its current arrangement works well. One change the 2015 calendar has received is the move of the Board of Zoning Appeals filing deadline to a position one week before its current position. Currently the intake of Board of Zoning Appeals (BZA) petitions filed on or just before a deadline day coincides with the preparation of BZA result letters, which must be sent within five days of a decision, according to state law, and this creates a logjam of tasks at that time of the month. The new position of the BZA filing deadline allows two big support staff jobs to be separated by time, easing the logjam. The deadline cannot be moved to a position one week after its current position because time is needed between the deadline day and the hearing days for such things as public notice.

Mr. Kolbus stated support for the change, citing a reminder from a local judge about the five-day time period following an appeal of a BZA decision two years ago. His support was also the result of the number of petitions the BZA has been considering recently and an interest in protecting BZA decisions. Mr. R. Miller asked how petitioners would be affected, and Mr. Mabry replied that the calendar is made public and all 2015 deadlines are viewable.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steven Edwards, that the request for adoption of the 2015 planning calendar be approved. The motion was carried with a unanimous vote.

11. *Plat Committee Appointment*

Doug Miller is leaving the Plan Commission and will be replaced by Lori Snyder, Mr.

Godlewski said, and his Plat Committee position needs to be filled as well. The two candidates are Roger Miller and Lori Snyder. Mr. Kolbus reminded the Board that the Plat Committee appointment is a two-month appointment only, for November and December 2014.

The Board examined the vacancy and candidacies in question, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Jeff Burbrink, that the Advisory Plan Commission appoint Lori Snyder to the Elkhart County Plat Committee position vacated by Doug Miller for the months of November and December 2014. The motion was carried with a unanimous vote.

12. *Zoning Ordinance Consolidated Draft*

Mr. Godlewski at this time said that a high-level discussion about the draft is needed, and the committees are each spending approximately five hours reviewing the changes in bubbles in the draft margins. He said also that the town hall meetings conducted to familiarize the public with the draft have gone well and that the public hearing for draft approval recommendation by the Plan Commission should be held during an evening meeting. Much discussion resulted in a determination that the hearing would be held during an evening meeting and that the meeting should be held in the Dunlap public services building.

Mr. Godlewski added that the reasons for the positive public response to the current draft are the transparency of the drafting process, Mr. Mabry's ordinance-writing experience, and inclusion of opponents of the failed 2011 ordinance draft on the current review committees. Mr. Warner added the length of the process, breakup of the review into modules, and modernization of the ordinance to the reasons for positive response. Mr. Campanello added developers' ability to do more business at the counter without the need for public hearings. Several Board members praised the planning staff for the work they have put into the draft.

Mr. Mabry distributed to the Board a three-page table summarizing draft changes *[attached to minutes as Staff Exhibit #2]*, and Mr. Godlewski distributed a four-page guide containing essential draft information for real estate agents, farmers, homeowners, builders, surveyors, and engineers *[attached to minutes as Staff Exhibit #3]*. Mr. Mabry then began review of the presentation used during the October town hall meetings by summarizing zoning's relevance to the comprehensive plan, subdivision, and permitting. Zoning governs what is allowed, what requires a special use, and what is prohibited. The ordinance draft contains specific use standards, and kennels are discussed as a use example. The presentation goes on to address nonconforming structures and the new ordinance's impact on them.

Mr. R. Miller stated how difficult it is to communicate to the public that relief from prohibitions, such as those on expansion of nonconforming structures, is available via variances, and Mr. Mabry said that he has tried to explain the available relief during the town hall meetings.

Mr. Mabry went on to say that the presentation addresses the ordinance draft's impact on the relationship between adjoining uses that conflict. It also addresses community character and how such things as landscaping, signs, and parking contribute to it, and he added that both market forces and the rules of a zoning ordinance influence the appearance of such places as downtown areas, shopping centers, and office parks. Mr. Mabry said also that during the presentation he reminds attendees that an ordinance has been in place since 1960 and that there are no properties without a zoning designation. He also mentions the five things zoning is not: subdivision governance, tax

policy, annexation, road and utility expansion governance, and building code.

The agents and property owners mentioned in the four-page guide containing draft essentials are identified during the presentation, the content of the guide is reviewed, and the extent of county jurisdiction is discussed. Many standards, such as those for building setbacks, are unchanged, and worry over the ordinance's creation of nonconforming structures is assuaged. The committee review process is displayed graphically, the manner of communication of ordinance changes is discussed, and a side-by-side comparison is made of an old ordinance page and its new counterpart.

Legibility, easily navigable self-reference, reader orientation, via running heads and feet, and addition of graphic aids are also mentioned as goals of the ordinance draft. Also among goals are a delineation between standards, such as setbacks, and procedures, such as those for rezoning, and consolidation of articles and definitions that belong together but have become separated over time because of 54 years of amendments and other changes. The new ordinance moves from section to section more logically, Mr. Mabry said, in accordance with the actual processes observed for building projects, and all definitions have been moved to a single article.

The presentation then focuses on streamlining, another goal of the ordinance. Projects rely less on detailed planned unit developments (DPUDs) and special use permits and more on at-counter approval, a win-win for many parties, including landowners and planning staff, that eliminates stress, paperwork, and unpredictability. Gas stations, for example, are now permitted in the least intense commercial zone, B-1, but must observe buffering and landscaping standards. Mr. Godlewski commented that developers have always been encouraged to avoid using DPUDs and request instead "straight" rezoning, rezoning without a DPUD designation, unless the detail is necessary, as with cases when much remonstrance is anticipated. He said also that commitments, suggested by the staff or by the petitioner, can substitute for the details that would constitute a DPUD.

The easing of developmental restrictions, such as that on total accessory storage area, which presently can be overcome only by variance approvals, is another example of streamlining within the new ordinance. The R-4 district will now be a truly mixed-use district, permitting coexistence of small businesses and homes, a condition similar to what predated zoning that makes walking to work easier, so long as certain standards that preserve a residential feel to the area are met.

The presentation also highlights clustering within subdivisions that include permanent open space, now permitted in the A-1 district without a DPUD submittal as long as the development has sewer access and features single-family detached homes. Mr. Campanello, who specified that he is not against clustering, said that it should require a public hearing and not be permitted by right, as residents of an adjoining affected subdivision should have the opportunity to be heard and a hearing would serve in part to introduce those residents to the clustering concept, and Mr. Godlewski responded that cluster developments do currently require a public hearing. Mr. R. Miller asked whether the owners of homes in a cluster subdivision are given assurance that the open space will remain open, and Mr. Mabry responded that the open space is a feature of the plat in the form of a conservation easement. Mr. Burbrink mentioned that he lived in a Noble County subdivision featuring an open area that seven or eight residents owned jointly and paid taxes on. The use of such an area cannot be changed without the consent of all owners, Mr. Kolbus mentioned. Mr. Mabry said that addition of a requirement for screening between a cluster development and a conventional development would not be unusual.

Mr. R. Miller then asked what would be required of homeowners with common ownership

of an open area who later, after initial platting and development, decide to plat the open area for the creation of additional homesites, and Mr. Kolbus replied that a replat with the involvement of all owners would be necessary.

In response to Mr. Warner's question about how basic developmental standards for residential and agricultural districts will compare, Mr. Mabry said the carrying over of standards for such things as minimum lot area was a priority. Mr. Godlewski mentioned the addition of building prohibitions, and accompanying maps, for sites that contain any of 17 specified ponding soil types and the communication of the means available to overcome the prohibitions. The policy committee is now considering additional means, Mr. Godlewski said, and Mr. Burbrink and Mr. Godlewski agreed that that is partly because the maps are not always correct.

Mr. Warner then said that prohibition of residential uses in agricultural districts would reduce conflict, and Mr. Godlewski responded citing the addition of buffering standards in cases of adjoining uses that conflict, such as manufacturing and agricultural uses. The new use table, which specifies what uses are permitted by right, what uses are permitted by way of special use, and what uses are permitted so long as certain standards are observed, will also reduce conflict, he said.

The presentation concludes, Mr. Mabry said, with restatement of what zoning is, the drafting process, and the goals of the rewrite: user-friendliness, content modernization, and streamlining.

13. A motion to adjourn the meeting was made by Mr. Warner and seconded by Mr. R. Miller. With a unanimous vote, the meeting was adjourned at 11:40 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman