

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 8TH DAY OF JANUARY 2015 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, Lori Snyder, Roger Miller, Steve Edwards, Frank Lucchese, and Blake Doriot. Steve Warner and Tom Stump were 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 (*Doriot/Lucchese*) that the minutes of the last regular meetings of the Elkhart County Plan Commission held on the 2nd day of December 2014 and the 11th day of December 2014 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Doriot/Burbrink*) 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. **ELECTION OF OFFICERS FOR 2015**

Mr. Edwards read the 2015 Slate of Officers and Appointments, included in the Board members' packets, at this time.

The Board examined the slate, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Frank Lucchese, that the Advisory Plan Commission approve the 2015 Slate of Officers and Appointments (see attached).

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steven Edwards, Tony Campanello.

5. The application for vacation of a county right-of-way known as **WEST STUB OF RECKELL AVENUE**, for Smartt Property, LLC, on property located on the west side of Violet Road, west end of Reckell Avenue, in Osolo Township, zoned R-2, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #0000VIOLET ROAD-141121-1*.

Cindy and Cliff Smartt, the petitioners, 51389 CR 15, Elkhart, were present and stated that they own property immediately north and south of the subject stub. Their intent is to clean up the tree line in and move a fence into the right-of-way in question.

Mr. Miller asked what the original purpose of the stub was, but Mr. and Mrs. Smartt, who bought adjacent property a couple of years ago and have been maintaining the subject piece, did not know. Mr. Doriot commented that Reckell Ave., a stub street, was once expected to extend west to accommodate future development. Mr. Miller asked whether future extension could be expected, and Mr. Doriot responded no.

There were no remonstrators present.

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

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Roger Miller, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for vacation of a county right-of-way known as **WEST STUB OF RECKELL AVENUE** be approved in accordance with the Staff Analysis.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steven Edwards, Tony Campanello.

6. The application for a zone map change from R-1 to R-4, for *Sonshine Day Care Ministry, Inc.*, on property located on the north side of E. Main Street, 300 ft. east of Jefferson Street, common address of 125 E. Main Street in Clinton Township, was presented at this time.

Liz Gunden presented the Staff Report/Staff Analysis, which is attached for review as *Case #125EMAIN STREET-141118-1*.

Eric Brown, 67060 CR 37, Millersburg, and Larry Shroyer, 2012 Bashor Rd., Goshen, were present on behalf of the petitioner. Mr. Brown stated intent to move a daycare to an existing church building on the subject property from a location a block away from it. The church building will be converted into a daycare center, and the new location will contain increased play area.

Mr. Doriot asked how many children will receive care, and Mr. Brown answered 15 full-time children and about 14 before and after school. He added that the current facility's lack of a basement or storm shelter is another reason for the move; the existing church building does have such.

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** Jeff Burbrink, **Seconded by** Blake Doriot, that the Advisory Plan Commission recommend to the Millersburg Town Council that this request for a zone map change from R-1 to R-4 for *Sonshine Day Care Ministry, Inc.*, be approved in accordance with the Staff Analysis.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steven Edwards, Tony Campanello.

* See minutes item 11 for the application for a zone map change from A-1 to M-2, for *Amy L. Miller, Mark A. Salee & Stephen C. Salee (owners) and Sand Bar Investment Group, Attn. Tim Roeder (developer)*.

7. *Revisions to Plan Commission Rules of Procedure*

Mr. Mabry at this time called attention to the revised Rules of Procedure included in the Board members' packets. The revisions have been made in conjunction with the adoption of the new zoning ordinance, he said, and proceeded to summarize the revisions. Page 7 contains an addition governing maintenance of and the amendment process for the county's pending soils map. Page 11 now specifies the parties interested in changes to commitments and DPUD site plans. Page 12 now specifies the amount of time the planning department has to notify the parties of change decisions. Page 14 now contains a statement concerning the waiver of application fees. Page 15 codifies additional requirements concerning site plan modifications and appeals to site plan change decisions. Page 23 contains stylistic changes and an addition to a subheading, and page 27 now contains a conflict provision and a correction to the effective date of the revised rules. Mr. Kolbus affirmed that the revised document is consistent with practice and the new zoning ordinance.

The Board examined the revisions, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Frank Lucchese, that the Advisory Plan Commission adopt the Elkhart County Plan Commission Rules of Procedure as revised, effective January 8, 2015.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steven Edwards, Tony Campanello.

8. *Transfer of Jurisdiction to the City of Nappanee*

A February 2015 workshop will address a transfer of jurisdiction of some areas from Elkhart County to the City of Nappanee, said Mr. Godlewski. The city would like to govern the areas beginning sometime this year in preparation for commercial development of land near Nappanee Municipal Airport, and in the event of transfer Mr. Burbrink and Mr. Doriot will appear on Nappanee's plan commission.

Mr. Doriot asked how Nappanee's transfer request is being received, but Mr. Godlewski said that the exact areas to be considered, which will comprise farmland and residential uses between the city and the airport, have not yet been determined. Mr. Godlewski mentioned also that transfer of jurisdiction, rarely used, is a means of control exercised as an alternative to annexation.

9. *Quarterly Executive Committee Meeting*

Mr. Godlewski then mentioned that he will meet with the Plan Commission's executive committee after the February 2015 workshop. The meeting will be the first in a series of quarterly meetings.

10. ***Certification of Residency—Steven Edwards***

Mr. Kolbus at this time asked that a certification of residency for Mr. Edwards be added to the record, pursuant to the Plan Commission Rules of Procedure. The form accompanies the January 2015 Plan Commission minutes (see attached).

11. The application for a zone map change from A-1 to M-2, for ***Amy L. Miller, Mark A. Salee & Stephen C. Salee (owners) and Sand Bar Investment Group, Attn. Tim Roeder (developer)***, represented by Brads-Ko Engineering & Surveying, Inc., on property located on the southwest corner of CR 2 and East County Line Road, in York Township, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #00000CR 2-141103-1*, and submitted four exhibits: a letter from Jim C. & Sandra K. Bugg to Mr. Godlewski with a received date of January 5, 2015 [attached to file as *Staff Exhibit #1*]; an e-mail from Pete Andrews to Mr. Mabry dated January 7, 2015 [attached to file as *Staff Exhibit #2*]; an e-mail from Mark Salee to Mr. Mabry et al. dated January 7, 2015 [attached to file as *Staff Exhibit #3*]; and a four-page e-mail from Mr. Mabry to the Plan Commission members dated January 2, 2015, containing, among other things, two Google Maps images showing the proximity of the subject property to Stone Lake and the toll road and the location of a ditch that runs through the subject property [attached to file as *Staff Exhibit #4*].

The petitioners propose that the site plan submitted along with the request, which features buffer areas along CR 2 and along property lines that separate the subject property from adjacent residential properties, be a commitment for future development on the property, Mr. Mabry said. He cautioned, though, that he would not discuss berming and buffering further, as Mr. Pharis, Brads-Ko Engineering & Surveying, Inc., will present new drawings that propose changes to the berming and buffering. Mr. Mabry then commented that the tree-height figure that does appear in staff-proposed commitment 2 was added after a determination that the height of trees proposed by the original site plan was left ambiguous.

Mr. Campanello asked whether the subject property is within a TIF district, and Mr. Mabry said yes. Mr. Burbrink asked for confirmation that a new public hearing would be required if different development of the property were ever proposed, and Mr. Mabry said yes, a recommendation of approval based on the currently proposed commitments would limit use of the property to those uses outlined in staff-proposed commitment 3.

Barry Pharis, Brads-Ko Engineering & Surveying, Inc., 1009 S. Ninth St., Goshen, was present on behalf of Sand Bar Investment Group, purchaser, and Indiana Transport, which he described as developer. He began by indicating surrounding zoning, uses, and roads, including an access road along the west side of the subject property that he said serves nearby manufacturing uses.

The site's proximity to RV manufacturing and the toll road make it an ideal site for his clients, he continued. The original site plan submitted for the December 2014 hearing featured a 150 ft. drive extending south from CR 2, which will prevent CR 2 stacking, and an interior gate location. Planting of street trees and mounding are proposed along CR 2 and are detailed by a site plan inset. A double row of mounds and plantings might be used along CR 2, he added.

Mr. Pharis then said that while the original presentation offered a four ft. mound topped by arborvitae that would shield the four adjacent residential properties from the subject site, a type of

tall, hardy, deep-rooted grass that withstands drought and heavy snowfall recently came to his attention. As a result, the proposed berm is now eight ft. tall, topped by the described grass, which grows to a height of five ft. Mr. Pharis then distributed a two-page handout explaining the updated proposal *[attached to file as Petitioner Exhibit #1]*. The berm will have 2:1 side slopes, and the grass, switchgrass, is native. He then said that an initial eight ft. mound topped by four ft. grass that grows to a height of six ft. will result in a 14 ft. buffer for the four residences in question.

Lighting will be directed down and shielded, and commitments have been included with the submittal, among which are a commitment to provide a site plan addressing the issues at question and a commitment to provide a rule 5 and postconstruction plan, Mr. Pharis went on to say. The rule 5 and postconstruction plans have been approved.

The drainage path through the site was known to the petitioners from the beginning of this process, Mr. Pharis said, and he referred to a letter to the planning department, mailed before the December 2014 hearing, expressing concern over it. He also referred to a letter to the planning department from the LaGrange County surveyor, Rex Pranger, which contains an explanation of the drainage path and information about the history of Stone Lake. On a printed aerial view he then indicated the direction of the path, following it from what he said is thought to be a 24 in. pipe under the toll road to the subject property.

The intent, Mr. Pharis said, is to create a swale behind a 75 ft. setback area and fencing where no work will be done. The swale will serve for detention and retention in the event that water comes to the property. The detention will contain the water, which will then be swaled or piped off the property. "We are assuring you," he said, "that in the event of any flood event we are going to maintain that water as it would historically have been maintained," but he added that Rex Pranger, in his letter, stated he had not seen water present in the path for 40 years and that the current owners have not seen water for the same amount of time.

The first letter cited also addressed traffic around Stone Lake, he continued. He stated that a driver pulling a rig and exiting the subject property would have difficulty accessing the toll road by driving south on East County Line Road, a narrow roadway, and then driving west on CR 4 and north on SR 13. The drivers, who are employees of Brads-Ko's clients, will be instructed to drive west on CR 2, Mr. Pharis said, and signs requiring west exit from the site will be placed. "We don't want [traffic] to go south," he insisted. Mr. Campanello asked whether there is a stoplight at the intersection of CR 2 and SR 13, and Mr. Pharis responded yes. Mr. Campanello then asked where the ditch stops, and Mr. Pharis said it runs though a Lippert Components location and north into Michigan.

Mr. Pharis then said that the waterway in question is not a ditch but a "swale" or "pathway," and added that the pathway's lack of legal drain status in Elkhart County renders it not a legal body of water subject to IDNR or the Corps of Engineers. Among the petitioners' commitments, however, is an assurance that water, when it comes, will be taken care of.

The planning staff's one commitment, Mr. Pharis said, was the requirement of six ft. arborvitae on a four ft. mound, but the change requested is to five ft. switchgrass on an eight ft. mound. The switchgrass will survive on a tall mound, and the requested change will better serve the affected neighbors by blocking noise and having an attractive appearance. "There will be other plantings of . . . native wildgrasses along the mound itself," he concluded.

Mr. Campanello asked what will happen if the grass does not grow and expressed doubt that mounds retain moisture. Mr. Pharis responded that the mounds will retain moisture and that the

grass will be replanted more than once if it does not grow. Mr. Burbrink said that the grass will grow. Responding to a question from Mr. Edwards, Mr. Burbrink said that invasiveness depends on species. Switchgrass and big bluestem, warm-season grasses, are not invasive. Responding to a query from Mr. Doriot, he said that establishment of the grasses will take a while and occasional burning, every five or six years, might be needed.

Mrs. Snyder asked for confirmation that the lot will be used for storage and not sales, and Mr. Pharis confirmed. The site will contain no buildings, and a hired security service will be used for patrolling. "No buildings, no people, no sanitary sewer, no wells. Just storage," he added. In response to Mr. Burbrink, he then confirmed that fencing will be placed around the site.

Returning to the subject of lighting, Mr. Doriot indicated concern over light output and asked how tall the poles will be. After conferring with his clients, Mr. Pharis said that "the poles are typically 16 feet, they're dimmer lights, and they're shielded to go down."

Mr. Campanello asked whether the parking area would be aggregate or asphalt, and Mr. Pharis responded that his clients typically use aggregate, which can be recycled asphalt or a mix of stone, in driveways, but the entrance will be concrete. The aggregate will be professionally installed and treated yearly to suppress dust.

Upon request from Mrs. Snyder, Mr. Pharis then indicated the path that exiting drivers will take: one that takes them west on CR 2. Upon reaching SR 13, they will head south to access the toll road or north to enter Michigan. He again insisted that it makes no sense for them to use East County Line Road. Upon further query from Mr. Doriot, Mr. Pharis responded that units will be picked up from manufacturers, delivered to the site, and then taken by client employees to nationwide destinations.

Mr. Miller asked whether the site will be used 24/7, and Mr. Pharis said it will be accessible 24/7, noting that in the RV industry late-hour work is at the end of the month, when manufacturers need to move product offsite so it can be considered sold. Drivers typically will arrive at 6:00 a.m. or 7:00 a.m., however.

Mr. Edwards further questioned whether moving water is visible onsite, and Mr. Pharis's response was that there is some indentation but the path is not like a drainage ditch or a swale. Across the site, the elevation is 816 ft. with some deviation, and the site is not farmland and contains not forested trees but scrub brush and trees salvageable for wood or burning. Mr. Edwards then asked whether the proposed grading will convey water to the discussed east-side swale, and Mr. Pharis answered by indicating the driveways planned for the far northeast portion of the site and the areas of small impression between them to which water will be directed. "Do you think it will actually gain water there before it drains and [goes] under?" asked Mr. Edwards, and Mr. Doriot replied that the soil in the area is "like a screen" and had no concern about drainage unless the ground is frozen. Mr. Pharis then reiterated the direction of water flow, east to west, and said that water will emerge from Stone Lake only when the lake's water level reaches the figure stated by Mr. Pranger in his e-mail to the planning department.

Mr. Burbrink asked what type of soil is present onsite, and Mr. Pharis said Oshtemo, which Mr. Burbrink then described as being like sugar sand.

Jeff Zavatsky, 11976 W. 745 N., Middlebury, was present representing the homeowners on and around Stone Lake, he said. He first praised the Elkhart County comprehensive plan for its simplicity, effectiveness, and usefulness, and promised frequent references to its provisions during his slide presentation *[attached to file as Remonstrators Exhibit #1]*. After visiting a site, also owned by

Indiana Transport, near his place of work that is similar to the proposed site, he learned the dimensions of towed product—lengths of eight to 40 ft. and widths around 8.5 ft.—and learned that more than one unit can be transported on a single trailer. Conceding that the RV industry is important in Elkhart County, he then clarified that he is not against development or the industry. He is against rezoning of A-1 land, which he called residential, to M-2, which he called extreme manufacturing; its impact on the environment; and its impact on quality of life.

He then stated that other properties are available to the petitioners that are better suited and already appropriately zoned, and called the petitioners' current action "a cheap land grab by a business" that is shirking acquisition of commercial property at a fair value. Such action, he said, is why rezoning laws exist.

Referring to slide 8 of his presentation, he cited availability of many existing, cleared, appropriately zoned properties, and referring to slide 9, he quoted several statements appearing as part of goal 1 of the comprehensive plan that, he held, oppugn the proposal.

Continuing, he indicated the many homesites that surround the subject property, which he said is in the middle of a residential area and separates homesites to its north, east, and south from industry to its west. Countering the Staff Report's observation that the subject piece is near business sites, he then indicated four business locations west of the property and the piece with parcel no. 04-13-200-011, a "buffer zone . . . required to be there in order for that last business to be developed." The purpose of the parcel, which features an access road and concealing foliage during summer, is to shield residents on the other side, he said.

With warning about the number of RVs the site will accommodate, 1,218, Mr. Zavatsky then stated that the submitted plans, which provide a traffic count, do not identify who or what performed the count or on what road the count was taken. Addressing road use, Mr. Zavatsky said that the petitioners cannot guarantee drivers' use of only one road and that control can be had only over exit. The drivers, he added, are subcontractors and come from all over the country, and they will be using not paper maps but electronic devices to navigate, as they are paid to take the shortest route, which places them on rural CR 43, not SR 13, for north destinations and on East County Line Road, not SR 13, for east destinations via SR 120.

Slides 19–29 document Mr. Zavatsky's staging of RV transport on East County Line Road in December 2014. Scarce clearance between RV transporters travelling in opposite directions, damaged mailboxes and walls, and unstaged passing of RV transporters by drivers who could pass only by going off the pavement were documented.

Moving to slide 30 of his presentation, Mr. Zavatsky quoted statements appearing as part of goal 5 of the comprehensive plan that, he held, are in place to prevent the unsafe movement of vehicles and people documented above.

Noise and smell generated by diesel trucks present 24 hours a day, seven days a week, 365 days a year, serving 1,218 stored RVs, will impact the area as well, and he worried that the number of vehicles present would be double 1,218 because of the transporters, operated by drivers on their own schedules. Impacts also include those on the environment, because of oil and antifreeze, and he reminded those present that area residents use wells.

Goal 2 of the comprehensive plan also contains statements with which the proposal is inconsistent, Mr. Zavatsky then indicated, moving to slide 32. The subject site is in a rural setting that should be protected, he said.

Focusing on crime, he held that RV units are targets that should not be brought into a

residential area. Focusing on lighting, he mentioned that while the petitioners have said it will address crime, it will interfere with enjoyment of clear, starry, lakeside nights.

He then showed a reproduction of the petitioners' site plan, appearing on slide 36 of his presentation, and identified the line across the north side of the subject property as the kind used to indicate an "intermittent stream." He observed that the term *stream* had not been used during the hearing until now, that it does not appear in the submitted plans, and that the plans do not say what the line symbolizes. He proceeded to read Indiana's definition of *stream* from slide 37, and read a ditch description and an additional stream description, each of unspecified origin, also from slide 37. Moving to slide 38, he read descriptions of perennial streams, intermittent streams, and ephemeral streams, also of unspecified origin.

Mr. Zavatsky asked why e-mails to planning staff had to be sent before the feature indicated by the site plan line in question began to receive attention. The line type in question "is a typical line that a CAD operator will pick and use," said Mr. Doriot. Mr. Doriot added that what he saw onsite was a channel created "a long time ago" when Stone Lake was a problem and needed to be partially drained. Mr. Zavatsky then repeated that the line receives no definition or legend appearance on the submitted plans and can be interpreted only by someone with knowledge of the feature.

Also absent from the site plan, said Mr. Zavatsky, are the locations of two culverts, documented in slides 39-43. The west culvert is six ft. in diameter, he stressed. In further protest of the absence of the culvert locations from the site plan, he indicated a Brads-Ko letter, which is part of the rezoning file, that states that the hearing site plan and the detailed site plan will appear to be the same "to the normal eye" and will be the plans to which the petitioners will be held accountable. Quoting the above-referenced e-mail from Mr. Pranger, in which an "intermittent blue line" is mentioned, he then displayed a map showing a blue line over the feature at question, holding that it symbolized an intermittent stream. The blue line is a USGS symbol for an intermittent stream, he said.

He then referred to Mr. Pranger's denial of having records of and having worked on the pathway in question and said that he expected such, as the pathway is a "naturally occurring waterway" and not a man-made ditch. The only man-made features are the culverts mentioned above, he said. He then displayed a photo of the toll road waterway underpass and said it measures eight ft. by eight ft. and in fact is not the 24 in. RCP (reinforced concrete pipe) specified in "the toll road plans." Presence of sediment in the underpass, he said, currently reduces the underpass to a six ft. opening. An underpass of this size "moves a lot of water, for a reason." He tempered statements above observing a 40-year absence of water, indicating that absence does not mean water will never be present, and questioned the relevance of the opinion of Mr. Pranger, who has never worked on the waterway.

Proceeding to slide 45, he displayed an undated aerial photo of unknown origin that, he said, shows water present in the pathway in question, but the submitted plans, he held, do not address the eventual arrival of water at the pathway, which, Mr. Pranger wrote, will be brought into play someday. Moving to slides 46 and 47, he then discussed Stone Lake's water level control system, and cited IDNR data documenting the frequent rises of water level above "0." Zero, he said, was set in 1965, and water levels above it trigger deployment of the system.

The waterway in question is an intermittent stream whose source is Stone Lake, he asserted, and the filling in of a stream is illegal. Alterations to streams require permitting and performance of environmental impact studies, and Fish Lake, Pigeon River, and St. Joseph River will be impacted

by the proposal, in which IDNR, the “division of water,” the Army Corps of Engineers, and IDEM have interest.

Reiterating a stance that absence of water does not mean it will never be present, Mr. Zavatsky then cited a 2007 multihazard mitigation plan prepared for Elkhart County and adopted by the Board of County Commissioners that identifies a watershed incorporating Pigeon River, Fish Lake, and Stone Lake with total area of 3,004 acres.

Further comprehensive plan statements with which the proposal is inconsistent, found under goal 4, were then highlighted on slide 51 by Mr. Zavatsky. He also displayed photos showing a high water mark on the Stone Lake weir, or flow-altering barrier; a portion of the path north of the weir and south of the toll road that is notably treeless, because the path is too wet; the toll road underpass; the culverts on each side of the subject property; the depth of a portion of the path between the culverts; one end of another culvert that is six ft. in diameter; the CR 2 culvert; fast-flowing water at a location upstream of the point of confluence of Fish Lake outflow and Stone Lake outflow; and water flowing at the Stone Lake weir. The subject property is in a watershed whose components are connected and protected, he concluded, and any plans the developer has for water containment onsite are insufficient to address eventual flow from Stone Lake.

Christian Slabach, 7937 N. 1200 W., Middlebury, lives east of the subject property. As owner of C. S. Electric, he installs and designs lighting for uses similar to the proposed use. Sixteen ft. poles will never illuminate the property, he said. The poles will have to be 25–35 ft. tall, and each will have to support a light of 1,000–1,500 watts. He also noted that no buffer zone is planned for the east side of the property, he has frequently seen two ft. of water in the portion of the ditch that runs through his property, and he has seen water running all the way to Pigeon River with equal frequency. The waterway is not a ditch but a stream, he said.

Mr. Slabach also asked where drivers are “going to go,” as Mr. Pharis has indicated that no sanitary systems or buildings are planned.

Ron Browning, 51601 East County Line Road, Middlebury, who is not against transport companies, as he makes a living by them, is against storage lots and the traffic they generate. Three hundred to five hundred units a day, he said, will arrive at the subject property, transported by over 500 drivers, who have been cited for unsafe driving, company records reveal. The drivers are paid by the load and so are paid according to the speed at which they can come and go. He said also that arrival of drivers, not exit, is of concern because East County Line Road is a connection between the site and places of origin east of Elkhart County, such as Shipshewana and Topeka. Mr. Browning, who does not bring trailers home, ended by saying he wants children to be able to continue to walk down the road, but they will not with the increase in traffic.

Janet Miller, 7390 N. 1160 W., Middlebury, pointed out that the employees referred to by the petitioners are in fact contractors, whose behavior is difficult to control. She added that members of the Stone Lake community are close, are protective of one another, and take costly lake stewardship seriously. Project approval, which will be inconsistent with a new Elkhart County zoning ordinance that purports, she said, to protect property investments by grouping like uses, will thwart the community’s conservation efforts, however. The new Stone Lake boat launch is a sign of IDNR’s regard for the lake, a fishing and swimming lake, and the values of lake properties, which year-round residents have invested in, will be affected by the rezoning, she said.

Sue and Ken Kronewitter, 11820 W. 750 N., Middlebury, own lakeside property and a parcel south of the toll road whose east border is formed by the waterway in question. The

waterway contains frozen water four to five times each winter and liquid water during other parts of the year, Mrs. Kronewitter said. She and her husband have been residents of their current home and witnessed this presence of water since 2007. Mr. Kronewitter then said that their home is near the Stone Lake outlet and attested to the movement of water over it. The graph Mr. Zavatsky showed, on slide 47 of his presentation, would reflect even more instances of high water if it were updated, he said, and he further attested to the size of the toll road waterway underpass, which conveys water at levels that require a person standing in the water to wear waders, not just boots. He has also witnessed a “virtual lake” on the north side of the toll road underpass and protested Mr. Pharis’s description of the path through the subject property, which, he said, has carried plenty of water, as merely a “little depression.”

Maria Rutland, 51757 East County Line Road, Middlebury, calling attention to the lack of road shoulder and available area for it, said she has experienced the destruction of her mailbox more than once by drivers travelling on East County Line Road attempting to avoid a child, a pet, or another vehicle. Area residents frequently walk the roads surrounding Stone Lake to access it, and such use will become dangerous with the arrival of more traffic, which will always use the shortest available route when heading to the subject property. She concluded expressing concern over the introduction of invasive plant species to the area.

Steve DeLucenay, 7465 N. 1200 W., Middlebury, began by stating sewer was installed around Stone Lake approximately six years ago. He then said that during the meeting of an unspecified Elkhart County board approximately 25 years ago, a guarantee was made that manufacturing would come no closer to Stone Lake than it was at the time, at the intersection of SR 13 and CR 2. Now, Stone Lake has sewer, and 15–20 industrial uses that do not have sewer appear within a mile of the lake. He implored the Plan Commission to ensure the extension of sewer to the industrial area on CR 2, and Mr. Lucchese offered that sewer will be run down the portion of CR 2 at question “probably within this year.” Mr. DeLucenay acknowledged the eventual arrival of more industry in the area but said that the subject property is the last remaining buffer between the industry at west and the lake area.

Jackie Trump Astling, no address given, began by noting that Indiana Transport also transports portable toilets and that drivers might be able to use them onsite. She then said that the shortest available trailers were used during the staging discussed above by Mr. Zavatsky and warned of the difficulty school bus drivers have negotiating corners near Stone Lake. Area residents have been run off CR 4 by semi drivers using GPS and heading to CR 2, she attested. “You have to move your cars, move your trash cans, and watch your mailboxes get wiped out,” she said, adding that police will not prevent semi drivers, who travel as fast as they can, from using lake-area roads.

Mrs. Astling then asked how many units will come and go from the subject property, as “no one has addressed that.” She also said that the buffer zone that comprises parcel no. 04-13-200-011, which contains a toll road access road, should remain, and expressed further concern that CR 2 will be effectively blocked by ingress and egress of unit transporters and made unavailable for use by area residents.

Donna West, 7185 N. 1150 W., Shipshewana, who lives on the east side of Stone Lake, read a portion of a report published on the website of Virginia Cooperative Extension that outlines many of the purposes served by switchgrass, and lamented the replacement of another environment that is good for nature by a parking lot.

Mr. Pharis began his response by addressing the concerns about toilets. His clients, who use

portable toilets that are cleaned weekly at their other sites, will use them at the subject site. No septic system that will impact the environment will be used. He then acknowledged that the maximum number of units that can be placed onsite is 1,218, if they are all parked correctly, but he stated also that his clients figure that the maximum number is actually between 700 and 800. In further response to concerns over ingress and egress of units, the real number, he said, is 20 to 50 a day. "Traffic to and from, on the worst day, is going to be 50 vehicles a day. Typically, 20 a day," he said, commenting that the higher volumes will occur at the end of the month.

Responding to concerns over transportation routes kept as short as possible, which might take drivers by Stone Lake, he said that his clients do not bring units from or deliver to Topeka. The issue, of unit origins east of Elkhart County suggesting delivery routes that go through the Stone Lake area, is therefore not verifiable, he said. The subject property will serve Middlebury and other SR 13 clients, and this is the reason for the petitioners' confidence in their ability to keep drivers on CR 2 and SR 13.

Continuing, Mr. Pharis noted staff's assertion of the project's compliance with the county's comprehensive plan vis-à-vis Mr. Zavatsky's assertion of its noncompliance. He noted also, in response to assertions that the subject property is in a residential area, that the property is zoned A-1 and that the request for a change to M-2 achieves a match with nearby properties to the north and west.

Mr. Pharis then addressed concerns over environmental stewardship. The property is not farmland and does not contain good woods, he said, but has been recreational land for the past 40 years. A use of the land for residences would permit approximately 90 lots and require multiple access points at CR 2 and East County Line Road. Sanitary sewer is not available, as the Stone Lake system is not suitable, and 90 septic systems and 90 wells would be required. Area residents would object to such development, he concluded, which would drain available water and pollute Stone Lake. The subject property, rather, will not feature a septic system or well.

An 8 ft. berm topped by grass will be installed for the benefit of the four property owners who will be impacted, three of whom adjoin at the north and one of whom adjoins at the south. The grass to be used is not considered invasive and is hardy and will provide added screening.

Regarding lighting, Mr. Pharis said that 30 ft. poles would be used if the petitioners wanted to attract people, as do supermarkets and gas stations. As the petitioners only want to install lighting sufficient to enable drivers to find units, 16 ft. poles are adequate. He did foresee slight lighting impact on Stone Lake residents, but he said it would not be major, in light of existing lighting conditions on CR 2 and SR 13.

Addressing concerns over the proposal's impact on area residents' quality of life, Mr. Pharis remarked that what residents want is the benefit of a 28-acre buffer that they do not pay for, pay taxes on, or take care of. The benefit of project approval is increased tax revenue for the county.

Mr. Campanello asked whether buffering can be installed on the east side of the subject property, as none is presently planned. Mr. Pharis said yes but identified water handling as a more important east-side issue. Mr. Miller understood that Mr. Pharis's clients do not have Topeka customers but doubted that a prospective Topeka customer would be turned down. Mr. Pharis agreed that the customer would not be turned down; the Topeka customer would be directed to store product at a Goshen location, not at the subject property. Mr. Miller then raised a remonstrator concern that any traffic problems will be attributable to arrivals, not departures, and asked how arriving drivers will be kept off lake-area roads. Mr. Pharis responded by asking why drivers would

drive around the lake when they are not paid to add mileage. “We’re taking steps to keep our drivers from using the county line road through there,” he said.

Mrs. Snyder asked whether signs prohibiting truck traffic can be placed all around the lake area, and Mr. Pharis said the issue would have to be decided by the county highway department. Mr. Burbrink asked whether the highway department can impose weight restrictions. Mr. Pharis said he did not know, and Mr. Miller said there is no weight issue. Addressing a remonstrator concern about the origin of the given traffic count, Mr. Pharis said that the data came from the county highway department, explaining that a 2011 count receives an increase of 6 percent, an INDOT standard, per subsequent year.

Mr. Pharis then focused on a remonstrator concern over the content of the Brads-Ko letter dated December 4, 2014. The remonstrator interpreted the portion of the letter that includes the phrase “to the normal eye” to mean that the site plan submitted for the December 2014 hearing and the ultimate site plan will be the same and that the ultimate site plan will not contain information about such details as turning radii and existing structures. But information about such details will in fact be included following the work of surveying crews; to the professional eye, such as that of a surveyor, the ultimate site plan will be more detailed than the original.

Further addressing remonstrator concern over truck traffic originating east of the subject site, Mr. Doriot asked whether a right-in/left-out CR 2 access point, which would feature a crash gate for any westbound ambulances, could be used. He added that any westbound driver on CR 2 would encounter the access point, find a left turn difficult to make, and not attempt a westbound approach a second time, and he said also that the Board of County Commissioners would have to inform the highway department of any right-in/left-out requirement. Mr. Pharis said that while the highway department wants what is currently on the site plan, such an intersection is possible, and another Brads-Ko right-in/left-out installation in Goshen has indeed promoted desired flow of traffic. Absence of an East County Line Road entrance will also help prevent unwanted Stone Lake–area traffic.

Turning to the matter of water flow, Mr. Pharis then denied saying “ditch” during his presentation and said he used the words *floodpath* and *floodway* instead. He then conceded that the presence of water east of the subject property and north of the toll road is the result of Stone Lake overflow; that the portion of the waterway in the area referenced might in fact constitute an “intermittent creek” by Mr. Zavatsky’s definition; and, in agreement with statements made by Mr. Pranger, that water could approach the subject property. But “something doesn’t make sense” if the toll road waterway underpass is an eight ft. structure and the downstream pipe under CR 2 is only 15 inches in diameter.

“We want to build a retention/detention area along here [indicating an area at the northeast corner of the subject property] where that 15-inch pipe is going to enter our property,” he continued, “and hold and then release it at a slower rate to go through our property.” Cooperation with the owners of the adjoining properties at west will result in flow that will continue onto those properties. Mr. Pharis said also that though the path is deep “off the county road,” it does contain big trees.

Mr. Miller noted that a portion of the path runs through Lippert Components property before reaching CR 2, and Mr. Pharis said that he will try to connect the subject property’s water-handling system to the Lippert property’s portion of the path, which, he said, might currently be used for the property’s own retention.

Mr. Doriot asked whether pipe will be installed “underneath each one of those roads,” and

Mr. Pharis said yes, water will not be swaled across driveways. Mr. Doriot then asked whether a succession of pipes and swales will be used—pipes under drives and swales between drives—and Mr. Pharis said piping will probably be used all the way across the property. He said also that 30 in. pipe will not be used; 15 in. pipe is used at the path's entry into county right-of-way.

Mr. Pharis did say also that some noise, generated by the entering and exiting vehicles, could be expected but that there would be no impact on the environment. He did say that vehicles might spill oil on driveways but that dust treatments "typically contain that as well."

Mr. Pharis then responded to a remonstrator description of the land transaction as a cheap land grab by a business, saying that the current owners do not think of the land as cheap and that now is the time for them to divest, now that their parents have passed away and their family is no longer in one place. He also said that extraordinary steps to achieve neighbor protection have been taken, and would add mounding and plantings on the east side of the property if asked. Mr. Campanello commented that such addition would be the neighborly thing to do, even though the beneficiaries are LaGrange County residents.

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

Mr. Doriot recalled that he saw trees growing in spoil piles when he looked from CR 2 at the disputed water pathway. He believed that within the last 100 years the pathway was created, as land around Stone Lake was thought to be too marshy. He commented also that the toll road commission has installed many box culverts of the size of that mentioned above when simple corrugated metal pipes would have sufficed. The oversized culverts were installed because the commission did not "want to mess with it in 30 years," he said.

He also commented that the pathway he saw was an intermittent waterway but not a stream because no high water mark was present. A high water mark is created when water that continually runs causes a vegetation kill on the side of a ditch, he noted. The petitioners are, however, planning to keep the pathway open in case of overflow, Mr. Doriot said.

Mr. Campanello and Mr. Doriot commented that some combination of pipes and swales would be used, with Mr. Doriot adding that other retention will be provided also. Mr. Campanello mentioned that he saw very large trees in the ditch.

Mr. Miller, who works in White Pigeon and travels through the Stone Lake area, attested to the slow rate needed for driving near Stone Lake and the amount of summer foot traffic on lake roads. Though no rig driver would make the mistake of using a lake road twice, he did not know how drivers could be kept off East County Line Road entirely. Commenting on Mr. Pharis's mention of a residential development scenario, he said that such development would bring as much traffic as the current proposal does and that the traffic would use lake roads. While he did not want to see traffic-generating development on the subject site, he indicated that the traffic impact would be less than that warned of by the remonstrators.

Mr. Miller also expressed understanding of the environmental concerns raised but further noted the absence of water on the subject property. He expressed confidence that the planned piping through the property would be sufficient to allow any flow experienced.

Mr. Campanello then commented that there are many uses that have greater environmental impact than the proposed one, including farming uses, and called the proposal a low-impact use. Mrs. Snyder offered that any changes to the proposed use, including addition of buildings, would require Plan Commission approval.

The subject area can no longer be called residential, commented Mr. Burbrink, who said that the time to stop further industrial development was when area development was first proposed. Mr. Lucchese repeated that sewer will be extended to CR 2 this year and that use of SR 13, which will be a nicer road, will be encouraged.

Though GPS will instruct drivers to use East County Line Road at times, said Mr. Miller, the Board agreed that a right-in/left-out intersection at CR 2 should be used. Mr. Burbrink asked the Board to remember that the request is for a rezoning, not approval of a detailed plan, and that the petitioners themselves are offering restrictions.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Tony Campanello, that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to M-2 for *Amy L. Miller, Mark A. Salee & Stephen C. Salee (owners) and Sand Bar Investment Group, Attn. Tim Roeder (developer)*, be approved with the following commitments:

1. Approved in accordance with the site plan that was submitted at the public hearing on January 8, 2015, and as represented in the petitioners' application.
2. Permitted uses on the property are those permitted in the A-1 zoning district and a recreational vehicle storage lot. All other uses are prohibited.
3. The exit must be designed with a right-in / left-out driveway to funnel traffic west on CR 2 when exiting the Real Estate.
4. A retention area must be placed along East County Line Road, as represented by the petitioners at the public hearing on January 8, 2015.
5. The petitioner must maintain the ditch that traverses the property to allow the free flow of water.
6. Plantings or a mound must be installed along the east side of the Real Estate to buffer neighbors.
7. The mounding must be planted with warm-season high prairie grass as presented by the petitioner.
8. Lighting must be installed as presented by the petitioner with a maximum of 17 sixteen-foot poles.

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

Yes: Blake Doriot, Frank Lucchese, Jeff Burbrink, Lori Snyder, Roger Miller, Steven Edwards, Tony Campanello.

12. A motion to adjourn the meeting was made by Mr. Miller and seconded by Mr. Edwards. With a unanimous vote, the meeting was adjourned at 11:58 a.m.

Respectfully submitted,

Daniel Dean, Recording Secretary

Steve Warner, Chairman