

**MINUTES**  
**ELKHART COUNTY PLAN COMMISSION MEETING**  
**HELD ON THE 11TH DAY OF AUGUST 2016 AT 9:00 A.M. IN THE**  
**MEETING ROOM OF THE 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 Chairman, Steve Warner, with the following members present: Blake Doriot, Frank Lucchese, Tony Campanello, Roger Miller, Tom Stump, Lori Snyder, Steven Edwards, Steve Warner, and Jeff Burbrink. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Liz Gunden, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board. Mark Kanney, Planner, was absent.

2. A motion was made and seconded (*Edwards/Stump*) that the minutes of the regular meeting of the Elkhart County Plan Commission, held on the 9th day of June 2016, be approved as submitted. The motion was carried with a unanimous vote.

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

4. The application for an amendment to an existing Detailed Planned Unit Development known as *Furrion Detailed Planned Unit Development*, for Furrion Investments, LLC., represented by Burkhart Advertising, Inc., 1335, Mishawaka, Ave., South Bend, IN 46615 and Jones Petrie Rafinski, 4703 Chester Dr., Elkhart, IN 46516, on property located on the North side of Independence Court, 1,100 feet North of Executive Parkway, East of CR 17, common address of 52567 Independence Ct. in Washington Township, zoned DPUD E-3, was presented at this time.

Mr. Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0342-2016*.

Matt Schuster, Jones Petrie Rafinski, 4703 Chester Drive, present to speak about Item #2, reported that previously it was not indicated the front drive wrapped around and connected to the back drive which is the plan now to connect to the back portion of the parking lot. He also said that the front entrance has changed some as well as the landscaping configuration. When Mr. Burbrink asked if it will basically loop around, Mr. Schuster responded with yes. Ms. Snyder asked him to show on the aerial, and he pointed out that the drive loops around at the North end of subject property. Mr. Campanello questioned if the Elkhart East Review Committee approves of the loop, and Mr. Schuster indicated that they do.

Gary Potts, Professional Permits, 58171 Dragonfly Court, Osceola was present representing Burkhart and Furrion Investments. He stated Furrion is requesting an amendment for one wall sign that exceeds the allowable 150 square feet. The proposed wall sign is 5 feet tall and approximately 45 feet long, for a total of roughly 225 square feet. He noted The Elkhart East Architectural Review Committee sign standards allow for a sign not to exceed 5% of the applicable building facade which calculates to around 321 square feet. The standard then states not to exceed 150 square feet. Mr. Potts said the sign is pleasing in design and placement upon the façade of the building and does not appear to be over-bearing or too large. The request is also for a second wall sign, approximately 143 square feet on a different façade that does meet the standard. The need for the larger sign on

the South elevation is to allow for proper way-finding for motorists due to the setback of the building on the property. He went on to say that the two monument signs serve as a dual purpose for business identification as well as directional way-finding for the parcel. The two monument signs are in compliance with the standard set forth in the Elkhart East Architectural Review Committee sign standards. The signs will be internally illuminated to allow for the minimum allowed light pollution while still making the signs safe and legible. Mr. Campanello asked if the smaller sign will be facing the toll road which Mr. Potts said was correct. Mr. Doriot questioned if Mr. Potts has spoken with Mr. Leatherman of the Elkhart East Architectural Review Committee. Although he has not personally, Mr. Potts stated, his client, Mr. Burkhart, was going to discuss the sign package with him. Similar to staff, he believes Mr. Leatherman would support a smaller sign but not the 5 foot sign. Mr. Lucchese stated he knows they have covenants up there and would not want to override them. Mr. Doriot stated if the Elkhart East Architectural Review Committee would agree to it, he would not have a problem with it either because they have a lot invested out there for a long time. If he gets approval from Elkhart East, Mr. Potts questioned if it can be done administratively and come back for final approval or can all be done administratively if they come up with a proposal for the sign. Mr. Godlewski noted when there is anything with a covenant, they try to honor it. Mr. Doriot stated he has no issue if the developer agrees and submits a letter of recommendation from the Architectural Review Committee. Mr. Doriot questioned Attorney Kolbus about the possibility of proceeding in that direction. In response, Mr. Kolbus stated, as he understands, that is what the staff is recommending. He explained the sign cannot exceed anything that is being requested today; and more than likely, it will be less depending on what the Architectural Review Committee approves. Mr. Potts asked if it would be a condition of approval. Mr. Doriot answered yes, once it is submitted to staff. Attorney Kolbus added that would basically require him to work with the Elkhart East Architectural Review Committee to come up with an agreeable plan. Ms. Synder questioned the reasons for the placement of the signs after clarification of the two signs locations. In response, Mr. Potts stated he is uncertain other than the setbacks.

There were no remonstrators present.

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

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

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Steve Warner, that the Advisory Plan Commission recommend approval of this request for an amendment to an existing Detailed Planned Unit Development known as *Furrion Detailed Planned Unit Development* with the following conditions imposed.

1. A replat will be required to move an easement.
2. Any sign proposals must first be approved by the Architectural Review Committee with a letter of recommendation to Staff.

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

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

5. The application for a zone map change from M-2 to M-1, for Keith Thomas represented by Mike Unternahrer, 510 Crystal Valley Dr., Middlebury, on property located on the West side of North Main St., South of York St., common address of 335 North Main St. in Middlebury Township, zoned M-2, was presented at this time.

Mr. Auvil presented the Revised Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0315-2016*, with recommendation for dismissal without prejudice. He noted he will be recommending a Zoning Ordinance update that will allow restaurants in an M-2 zone.

Mike Unternahrer was present representing Keith Thomas, 335 N. Main Street, Middlebury. He reported that the only correction he would make is that the ice cream parlor started in 2011 not 2001. Attorney Jim Kolbus noted that the key date is prior to when the new Zoning Ordinance went into effect. He also pointed out the fact that it is seasonal, with six months on and six months off. As there is no intent to vacate in the off season, it does not affect the non-conforming status.

There were no remonstrators present.

A motion was made and seconded (*Doriot/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** Jeff Burbrink, that the Advisory Plan Commission approve the withdrawal of this request for a zone map change from M-2 to M-1 without prejudice.

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

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

6. The application for vacation of North/South & East/West Right-of-Ways, North off of Cottage Grove Drive, for Doug Miller represented by Brads-Ko Engineering, 1009 S. Ninth St., Goshen, IN 46526, on property located North off of Cottage Grove Drive 1,550 ft. East of CR 43 South of SR 120, in York Township, zoned R-2, was presented at this time.

Mr. Godlewski presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0348-2016*.

Barry Pharis, Brads-Ko Engineering & Surveying, 1009 S. Ninth St, Goshen, was present representing Doug Miller who is present along with his builder, Jerry Hershberger. Mr. Pharis stated this request started because Mr. Miller wants to build this home to current standard. The Right-of-Way was discovered which cannot be built on. Mr. Pharis gave history about the property in this area and previous Right-of-Ways research they have done indicates these East parcels have been in the Miller family since the dedication. He went on to say they are trying to vacate portions of the Right-of-Way so Mr. Miller has all the buildable area for his residence, septic field system, and a repair site. Mr. Pharis stated Mr. Zupansic's concern is legitimate in that Mr. Zupansic will not have access to his property and referred to the drawing that he submitted [*attached to file as Petitioner Exhibit #1*] with orange highlighting. Mr. Pharis is proposing an easement to allow Mr. Zupansic to have access to his property if the Right-of-Way is vacated and should someone else get the property. Mr. Pharis said this would allow Mr. Zupansic access to his property should the County come in and put the street in the Right-of-Way like it belongs. He went on to say it also gives them the

ability to vacate those portions and eliminate them so Mr. Miller can replace the home. Roger Miller questioned the location of Mr. Zupansic's property which Mr. Pharis showed on the aerial. Attorney Kolbus questioned if it is the lake lots he would need access to, and Mr. Pharis responded with yes. He stated they only want to vacate a portion, but they are willing to grant an easement to make sure that should the County come in and put the street where it belongs, Mr. Zupansic will have access to his lake lots. Mr. Pharis noted they are just trying to clean up something that happened in 1961. When Mr. Doriot questioned where the Millers owned at the time of platting, Mr. Pharis stated they owned all of this. Mr. Doriot inquired if that was in the subdivision plat, and there were not signatures to the plat. He also expressed concern that the people with these lots may have some interest in that easement or suggested it was intended to be a boat launch but has not been used. Mr. Pharis stated they are making sure that Mr. Zupansic's property is served no matter what happens. When Roger Miller questioned if there was actual usage of that property for access to the lake, Mr. Pharis said there appears to be none since 1930. Mr. Doriot questioned Attorney Kolbus about anything that could cause an issue. Mr. Kolbus said not from our standpoint. He added it appears that the parcels in question have not been used in 80 years. He said they probably do not know it is there. Mr. Pharis reported it was discovered when Mr. Miller's builder tried to build his house. Mr. Burbrink inquired if the piece to the Southwest also belongs to Mr. Miller, and Mr. Pharis responded yes. He noted that a portion of that is not buildable. Mr. Pharis requested the Board speak with the representative for Mr. Zupansic. Mr. Pharis stated they are trying to vacate property on Mr. Miller's property so he can build a home and not deny any neighbor future access by the right of an easement.

Tom Delvecchio was present representing Daryl Zupansic, 10267 Cottage Grove Drive. Mr. Delvecchio indicated his property on aerial along with Mr. Zupansic's property. Mr. Delvecchio indicated he spoke to the Rutherfords and Dave Klouse. Mr. Delvecchio stated he takes care of easement area and property Southwest as he lives there year around. He reported there is no use of this easement other than by Mr. Miller and his family. Mr. Delvecchio went into history of the property. Mr. Delvecchio stated all the land owners need to have access to their properties and have had access on the gravel drive, which is not in the deeded Right-of-Way. Mr. Delvecchio noted all of the neighbors are in support of Mr. Miller's request and would love to see him have approval. He added that almost everyone has been in area for 35 years and properties have gone into third and fourth generations. Mr. Burbrink asked about closing the gravel drive shown on aerial. Mr. Delvecchio responded by saying that no one wants to relocate the gravel drive because it has been that way since 1905. Roger Miller noted if the property is dedicated, nothing is going to change, and they will still access to their property the same way, but they will have legal access. Mr. Delvecchio noted the fear was of potential land locked property which at this point he is not certain that it is. When Mr. Campanello inquired about moving the entrance, Mr. Delvecchio stated it is all low land in a flood plain, and they do not want it cleaned up. He stated they want a deeded easement so Mr. Miller can rebuild his house, and they have a legal access.

In response, Mr. Pharis made the clarification that they are not dedicating Right-of-Way, but dedicating an easement that assures future access to the cul-de-sac. Mr. Campanello questioned that at this point they are not going to do anything other than dedicate the easement, and will not be moving the drive. In response, Mr. Pharis stated it will be dedicated, recorded, and sent to the neighbors for their records. Also in response to Mr. Campanello about the moving the entrance, Mr. Delvecchio stated Mr. Woodruff who is the landowner of the property is also present. From the audience, Mr. Woodruff stated he does not want the driveway there on his property.

There were no remonstrators present.

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

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

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Steven Edwards, that the Advisory Plan Commission recommend approval of a 16.5 ft. ingress/egress easement for properties in platted subdivision, parallel to East line of the Miller property projected to the South line of the existing 16.5 ft. Right of Way and that 16.5 ft. of the Right-of-Way remain Right-of-Way, east line projected to the SE corner of Lot 10.

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

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

7. ***Board of County Commissioners Approvals Following Plan Commission Recommendations***

Mr. Auvil reported that in July, 2016 the Board of County Commissioners acted in accordance with all June 2016 Plan Commission recommendations, approving all petitions without modification.

8. Mr. Godlewski presented an interpretation of Administrative Subdivision which is included in the Board packets. He noted two things – when building a house on three plus acres – Administrative Subdivision and second if a residual piece meets standards of the Subdivision and Zoning Ordinance. Mr. Godlewski suggested a committee going forward, which the staff can work on. Mr. Godlewski stated he can prepare some information for next month.

9. A motion was made and seconded (*Doriot/Stump*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:13 a.m.

Respectfully submitted,

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Andrea Wyatt, Recording Secretary

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Steve Warner, Chairman