

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 13TH DAY OF JUNE 2019 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. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Zoning Administrator; Mae Kratzer, Planner; Doug Powers, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Tony Campanello, Steven Edwards, Roger Miller, Steve Warner, Lori Snyder, Jeff Burbrink, Tom Stump, Frank Lucchese, Philip Barker.

2. A motion was made and seconded (*Edwards/Snyder*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 9th day of May 2019, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Miller/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 Primary approval of a 22-lot major subdivision to be known as PRAIRIEVIEW FARM PHASE II, for Place Realty (Buyer) & Big M, Inc.(Seller) represented by Abonmarche Consultants, on property located on the West side of CR 5, 1,300 ft. North of CR 2, in Cleveland Township, zoned R-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0313-2019*.

Jason Auvil stated that for the record Big M, Inc. is the sole owner of the property and Place Realty is not purchasing the property.

Crystal Welsh, Abonmarche Consultants, 1009 S. Ninth St., Goshen, was present representing the petitioner. She stated that when the initial subdivision was approved there was a stub street. She added that the stub street is mainly gravel and is not maintained by the Elkhart County Highway Department. She explained that the owner wanted to remove the stub street and create another lot. She mentioned that they worked with Staff and they are recommending approval of this petition.

Eric Richmond, 29855 Prairieview Farms Blvd, was present in remonstrance. He stated that he has documents to pass out. He handed out an overview map, and two documents about the Indiana Adverse Possession law and Supreme Court [attached to file as Remonstrator Exhibits #1-3]. He explained that the map is an overhead view of the property. He added that it shows the existing subdivision phase one and the proposed area as well. Mr. Richmond stated that the property lines do not add up. Mr. Campanello stated that it looks like everything looks like it would fit. Mr. Richmond stated that the map shows the boundaries what is existing and what is proposed. Mr. Godlewski asked if he is expressing that the property lines are mismatched. Mr. Barker questioned if he had a survey done to the properties to verify that the property lines are wrong and if any legal

proceedings have been started. Mr. Richmond explained that no legal action has been taken yet. He added that the landowners believe that their property goes further than what is being shown on the aerial views. Mr. Miller questioned if Mr. Richmond is explaining that the properties that exist in phase one are assuming that they own land that they do not. Mr. Richmond responded yes, they all have been assuming that their property extends North into the woods. Mr. Kolbus explained to the Board that Mr. Richmond is stating that the property line he believes exist is further North than what is showing on the plat. When Mr. Kolbus questioned where the map came from, Mr. Richmond explained that it was retrieved from Google Maps. Mr. Kolbus explained that the Elkhart County GIS system is not entirely accurate and that is stated in the warnings. Mr. Richmond stated that he drew the property line from what people have been currently maintaining. He stated that he spoke with Environmental Health when he was building and was told that he could not build a certain way because there needs to be enough room for the septic and the reserve. He expressed his concerns about them shrinking the size of the lots that will be created with the new subdivision plat. Mr. Miller questioned if Mr. Richmond has had his legal description looked at by someone to determine where the North property line is located. Mr. Richmond stated that there are still survey markers in the woods showing where his property lines are. Ms. Snyder questioned if Mr. Richmond had a survey done when he purchased his property. Mr. Richmond responded that he believes one came with the home but did not request for an additional survey. When Mr. Miller questioned if his only objection to this petition is where his rear property line is and the new area begins, Mr. Richmond stated yes. Mr. Campanello explained that the document he supplied to the Board is not substantial enough to prove that those lines are further North. Mr. Edwards stated that the drawing is not based on an initial survey, and the drawing provided by Abonmarche is to scale and is a surveyed drawing. He added that this is where the Board will not be able to come to common ground to be able to side with Mr. Richmond. When Mr. Edwards questioned if his ultimate issue is that he does not want someone to build behind him, or does not want the subdivision built, Mr. Richmond responded right, and he would prefer that the subdivision not be built.

Ms. Welsh returned to the podium. She stated that the stub street that is proposed to be removed is Donna St. She explained that the lots between phase one and now phase two are not in comparison. She added that the drawings are to scale, the septic systems were evaluated, and the plans went through Technical Review. Mr. Campanello questioned if the lots meet standards in which someone can place a house, field system, and be able to place a pool or shed on the property. Ms. Welsh stated that the septic fields have been approved and staff has reviewed that they meet standards.

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

Ms. Snyder stated that the size and type of residence is desperately needed in Elkhart County. Mr. Barker spoke about adverse possession and how it worked.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Lori Snyder that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Primary approval of a 22-lot major subdivision to be known as PRAIRIEVIEW FARM PHASE II be

approved in accordance with the Staff Analysis.

Vote: Motion passed (**summary:** Yes = 8, No = 1, Abstain = 0).

Yes: Frank Lucchese, Jeff Burbrink, Lori Snyder, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump.

No: Tony Campanello.

5. The application for a zone-map change from A-1 to M-1, for Thomas E. Stutsman & Sharon Stutsman, Husband & Wife (Buyer) and Jack R. Darr & Carol L. Darr, Husband & Wife (Seller), on property located on the East side of Industrial Dr., 380 ft. South of CR 40 (Waterford St.), in Olive Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0299-2019*.

Tom Stutsman, 26800 CR 32, was present as the petitioner. He stated that he is purchasing the properties and thought they were both zoned M-1. He added that he is in a ten year land contract with the owners. He explained that his plans are to add a driveway.

Mike Maichen, 807 E. Waterford St., was present in remonstrance. He stated that he thought the owner would be doing an addition to the property. He mentioned that he was against the possible addition however, since it is a driveway he is not against that. He added that the only objection would be more trash from the semi-drivers, and possible lights. When Mr. Stump questioned if he lived just North of the referenced hay field, Mr. Maichen responded yes.

Mr. Stutsman returned to podium. He stated that they do not want to do any additions at this time, just a driveway.

A motion was made and seconded (*Miller/Edwards*) 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** Tony Campanello, **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 M-1 be approved in accordance with the Staff Analysis.

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

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

6. The application for a zone-map change from GPUD B-3 and R-1 to A-1, for Dennis J. Chupp & Carol I. Chupp (Owners/Buyers), Brookins Farms, LLC (Seller), and Fernbrook, LLC (Seller) represented by, on property located on the West side of SR 15, 1,300 ft. North of CR 142, common address of 67267 SR 5 in Jackson Township, zoned GPUD B-3, R-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0307-2019*.

Dennis Chupp, 67267 SR 15, New Paris, was present as the petitioner. He stated that they want to put an addition onto their shop. He added that their Special Use was approved and wants all of the property to be zoned the same.

There were no remonstrators present.

A motion was made and seconded (*Miller/Edwards*) 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** Steven Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone-map change from GPUD B-3 and R-1 to A-1 be approved in accordance with the Staff Analysis.

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

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

7. The application for a zone-map change from R-2 to A-1, for Keith Harper represented by Marbach, Brady & Weaver, Inc., on property located on the Southeast corner of Sandpiper Ln. & CR 11, 1,150 ft. South of State Line Rd., common address of 24712 Sandpiper Ln. in Osolo Township, zoned R-2, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0316-2019*.

Chris Marbach, Marbach, Brady & Weaver, 3220 Southview Dr., was present representing the petitioner. He explained the background of Hidden Lake Reserve. He added that part of the property is zoned R-2 and DPUD. He mentioned that amongst conversation with Planning Staff there is a two step process to zone the property to DPUD A-1. The process is making the property zoned A-1 then file for the DPUD.

Andy Carpenter, President of Hidden Lake Homeowners Association, 24497 Sandpiper Lane, was present in remonstrance. He stated that he is concerned about property values and safety. He added that he is also concerned about the access to the other residences that will be built in the future. Mr. Carpenter added that they do not want any extra driveways off of Sandpiper Lane. Mr. Campanello stated that this petition is just to clean up the zoning of the property. Ms. Snyder stated that the rezoning would make it more beneficial for the neighborhood. She explained that in an R-2 zone could have duplexes or something similar whereas in an A-1 zone it is just single family residences.

Mr. Marbach returned to the podium. He stated that they can add a non-access easement along Sandpiper Lane. He added that they will also give them rights to maintain the sign for their subdivision. When Mr. Kolbus questioned that all of this would come at the next phase when the DPUD is filed, Mr. Marbach responded yes.

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

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steven Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for

a zone-map change from R-2 to A-1 be approved in accordance with the Staff Analysis.

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

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

8. The application for an Amendment to an existing DPUD R-4 known as INTERCHANGE DPUD, IVY TECH SECTION to (1) add property and (2) rezone the added property from A-1 to DPUD R-4, for The Trustees of Ivy Tech Community College of Indiana represented by Progressive Engineering, Inc., on property located on the North side of CR 18, 1,500 ft. West of CR 17, common address of 22531 CR 18 in Concord Township, zoned DPUD R-4, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0282-2019*.

Brad Cramer, Progressive Engineering, 58640 SR 15, was present representing the petitioner. He stated that they are trying to add a piece of property to the existing and zone it to match the current zoning for Ivy Tech.

There were no remonstrators present.

A motion was made and seconded (*Campanello/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** Jeff Burbrink, **Seconded by** Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an Amendment to an existing DPUD R-4 known as INTERCHANGE DPUD, IVY TECH SECTION to (1) add property and (2) rezone the added property from A-1 to DPUD R-4 be approved in accordance with the Staff Analysis.

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

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

9. The application for an Amendment to an existing DPUD M-1 known as A REPLAT AND FIRST EXPANSION OF SMART M-1 DPUD LOT 1A to add/replace property signs, for SCM Properties, LLC represented by B. Doriot & Associates, Inc., on property located on the Northeast corner of CR 23 and CR 50, common address of 70680 CR 23 in Jackson Township, zoned DPUD M-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0285-2019*.

The petitioners were not present. The Board asked if they needed to table this petition. Jason Auvil stated that they do not need to table it. Mr. Auvil explained that they left out signage on the site plan and with DPUDs it is needed to reflect that.

There were no remonstrators present.

A motion was made and seconded (*Campanello/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** Jeff Burbrink, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an Amendment to an existing DPUD M-1 known as A REPLAT AND FIRST EXPANSION OF SMART M-1 DPUD LOT 1A to add/replace property signs be approved in accordance with the Staff Analysis.

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

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

10. The application for an Amendment to an existing DPUD M-1 to construct a storage building and for Primary approval of a 1-lot minor subdivision to be known as FIRST REPLAT, FIRST CHOICE DPUD, for PKK, LLC (Buyer) & Norman J. Yoder (Seller) represented by Marbach, Brady & Weaver, Inc., on property located on the South side of CR 4, 900 ft. East of SR 15, in Washington Township, zoned DPUD M-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0315-2019*.

Chris Marbach, Marbach, Brady & Weaver, 3220 Southview Dr., was present representing the petitioner. He stated that in 2015 there was a proposal for a semi distribution facility. He added that the proposal fell through and then the property was placed for auction. He explained that the buyer wants to build a building for his own storage. He stated that it will not be used as a business. When Ms. Snyder questioned how big the building will be, Mr. Marbach responded 10,000 square feet. Mr. Godlewski stated that the building will need to be built to the Class 1 building code.

There were no remonstrators present.

A motion was made and seconded (*Lucchese/Warner*) 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** Tony Campanello, **Seconded by** Frank Lucchese that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for an Amendment to an existing DPUD M-1 to construct a storage building and for Primary approval of a 1-lot minor subdivision to be known as FIRST REPLAT, FIRST CHOICE DPUD be approved in accordance with the Staff Analysis.

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

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

11. The application for a zone-map change from PUD A-1, PUD B-3, & GPUD B-3 to DPUD B-3 and for Primary approval of a one-lot minor subdivision to be known as ELKHART CAMPGROUNDS DPUD B-3, for Elkhart Campground, Inc. represented by Progressive Engineering, Inc., on property located on the South side of CR 4, 2,200 ft. East of CR 9, common

address of 25608 CR 4 in Osolo Township, zoned PUD A-1, PUD B-3, & GPUD B-3, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0289-2019*.

Brad Cramer, Progressive Engineering, 58640 SR 15, was present representing the petitioner. He stated that they want to add the Southern property to their existing property. He explained that they are planning on enlarging the camping areas. He mentioned that they want to have the added property be zoned the same as the campground.

There were no remonstrators present.

A motion was made and seconded (*Miller/Edwards*) 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** Tom Stump, **Seconded by** Lori Snyder that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone-map change from PUD A-1, PUD B-3, & GPUD B-3 to DPUD B-3 and for Primary approval of a one-lot minor subdivision to be known as ELKHART CAMPGROUNDS DPUD B-3 be approved in accordance with the Staff Analysis.

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

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

12. The application for a zone map change from A-1 to DPUD A-1 and for primary approval of a 1-lot minor subdivision to be known as STONE RIDGE MINOR DPUD, for Joshua Welker & Kathy Welker, H & W, on property located on the North side of CR 45, 900 ft. East of CR 17 overpass, in Concord Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #DPUD-0231-2019*.

Joshua Welker, 219 E. Wabash Ave, Wakarusa, was present as the petitioner. He stated that they are excited to offer the area with a nursery. He stated that McIntosh moved out a few years back and this will give the community a responsible landscaping business. Mr. Campanello questioned what kind of truck traffic will be coming onto the property. Mr. Walker responded that they want more of a garden center aspect. He added that their expectation with the layout is to have nursery stock on the East side of the property and the soil/compost material would be near the rear forested area of the property. He explained that the trucks they currently use are pickup trucks with trailers and an occasional semi. Mr. Warner questioned how this differs from the previous application that was filed. Mr. Welker explained that his original thought with the rezoning was to go with a B-3 zone to have the nursery. He stated that he did not realize that would open a door for heavier businesses if his business falls through. He added that does not want that for the neighboring properties. He explained that he worked with Staff and came to a conclusion to have a DPUD for this property and business.

Phil Evans, 3330 Pickwick Park Lane, was present in remonstrance. He explained that his property is adjacent to the subject property. He stated that he wants more clarification on what will

be done along that East property line. He also questioned if there will be a lot of traffic. He asked if there could be a barrier. When Mr. Lucchese questioned if he saw the plan for the DPUD, Mr. Evans responded he has not. Mr. Lucchese stated that the site plan does show a buffer. He wondered what else could go in the property if the business was not successful. Mr. Lucchese explained that the DPUD limits what can be done on the property. The property zoning would then allow only this type of business. Mr. Kolbus stated that they have submitted a site plan and is bound to the site plan if approved. He added that if they want to deviate from the site plan or someone else moves in and wants to change it, they would have to come back to a public meeting. Mr. Kolbus explained that the DPUD gives the Board control of what happens now and in the future.

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

Mr. Auvil stated that on the site plan there is a potential in the future to have a bike rest stop. He stated a lot of coordination and things have to happen with the City of Goshen, Commissioners, and Elkhart County Parks to get the bike rest stop going. Mr. Campanello stated that he thinks the Staff did a great job guiding the petitioner in the right direction.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Steve Warner that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to DPUD A-1 and for primary approval of a 1-lot minor subdivision to be known as STONE RIDGE MINOR DPUD be approved in accordance with the Staff Analysis.

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

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

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

Mr. Auvil reported that on May 6, 2019, the Middlebury Town Council approved an Amendment to the existing DPUD known as Dutch Corp DPUD. He added that on May 16, 2019, Bristol Town Council approved an Amendment to an existing DPUD known as Bristol Park for Industry Phase 2E DPUD M-1. Mr. Auvil reported that on May 20, 2019, the Board of County Commissioners approved two Zone map changes for Mennonite Disabilities Committee and Bruno Cataldo & Marisa Cataldo. He added that they also approved an Amendment to an existing DPUD known as RV/MH Hall of Fame Event Center and a DPUD known as Jomar Machining DPUD. Mr. Auvil explained that on May 20, 2019, a GPUD known as US 20 Distribution Center GPUD M-1 was withdrawn from the Elkhart County Commissioners meeting. Mr. Auvil reported on May 28, 2019, the Board of County Commissioners approved a Secondary for Lake James Estates.

14. *Confirmation of Election of Officers from February 2019*

Mr. Kolbus explained that it was brought to his attention that the appointments for the Plat

Committee were not consistent with the rules. He mentioned that the Secretary of the Plan Commission, which is Lori Snyder, shall be the Chairman of Plat Committee. He stated that what they approved earlier in the year was that Roger Miller be Chairman of Plat Committee. He explained that there were not enough members to vote last time and we need to vote to keep what was approved earlier in the year. He stated that there is a propose motion for Jeff Burbrink to read that suspends the rule and reaffirm the officer appointments.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Tom Stump that the Advisory Plan Commission approves to suspend for the 2019 calendar year that part of Plan Commission Rule 2.02.D that requires the Plan Commission Secretary to serve as the Chairman of the Plat Committee, and I reaffirm the list of Plan Commission 2019 Officers and Appointments. The motion was carried with a unanimous vote.

15. Chris Godlewski stated that next month he will have the budget for review. He added that the committee met for the Zoning Ordinance updates. He explained that there were about 12 people that attended and it went smoothly. He mentioned the one main discussion was addressing the PUD zonings that were zoned prior to 1998. The thought was that the PUD zone be rezoned since PUDs are not valid zonings anymore. He added that they also addressed temporary dwellings. He explained two different reasons why someone would use a temporary dwelling.

16. A motion was made and seconded (*Miller/Edwards*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:34 a.m.

Respectfully submitted,

Kristi Miller, Recording Secretary

Steve Warner, Chairman