

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 13TH DAY OF MARCH 2008 AT 9:00 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairperson, Jeff Burbrink, with the following members present: Meg Wolgamood, Steve Warner, Tom Lantz, Dennis Sharkey, Tom Holt, Blake Doriot, Roger Miller, and Mike Yoder. Staff members present were: Robert Watkins, Plan Director; Mark Kanney, Planning Manager; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Warner/Holt*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 14th day of February 2008 be approved with the minutes being corrected to reflect that Tom Lantz was present for the meeting. The motion was carried unanimously.

3. A motion was made and seconded (*Doriot/Holt*) that the legal advertisements, having been published on the 1st day of March 2008 in the Goshen News and on the 3rd day of March 2008 in The Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

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

5. The application for Primary approval of a six lot major subdivision to be known as ***THE REFUGE – SECTION 2***, for Robert & Deanna Deering (owners/developers) represented by Marbach, Brady & Weaver, Inc., on property located on the East side of Crossview Lane at the intersection of Crossview Lane and Refuge Drive in Baugo Township, zoned A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081211*.

Chris Marbach, of Marbach, Brady & Weaver, 3220 Southview Drive, Elkhart, was present on behalf of this request. He explained that they created the original section of this subdivision in 2003 and at that time the owners were not sure how they wanted to develop that side of the road. They have now decided to put six lots in that area and he said there are no new roads coming in at this point in time. He concluded his presentation by saying they have complied with the tech comments.

There were no remonstrators present.

A motion was made and seconded (*Sharkey/Lantz*) 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, a motion was made and seconded (*Doriot/Holt*) that the Advisory Plan Commission approve this request in accordance with the Staff Analysis provided the Soil and Water Conservation District approves a

Storm Water Prevention Plan prior to Secondary plat approval. The motion was carried with a unanimous roll call vote.

6. The application for Primary approval of a ten lot industrial subdivision to be known as **MICHIANA GREENFIELD INDUSTRIAL PARK**, for Greenfield Corporation (owner/developer) and Chicago Lands, LLC (owner) represented by Marbach, Brady & Weaver, Inc., on property located on the West side of CR 43, 1,060 ft. North of CR 2 and North side of CR 2, 1,320 ft. West of CR 2 in York Township, zoned M-2, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081218*.

Chris Marbach of Marbach, Brady & Weaver, 3220 Southview Drive, Elkhart, was present on behalf of this request representing the Greenfield Corporation and Chicago Lands, LLC, who are both owners of this property.

The location of the subject property was shown on the zoning map as well as another development on the south side of CR 2 created by the Greenfield Corporation. Mr. Marbach said they also own about 65 acres in Michigan that is adjacent to this particular parcel. They are putting the road along the state line so they can service both the Indiana and the Michigan side of this development.

According to Mr. Marbach, they are only requesting ten lots on these 84 acres with an average lot size of 7.8 acres. The property is zoned M-2 and they would like to construct an industrial subdivision that is very similar to the development on Greenfield Parkway located directly to the south in the same kind of industrial area.

They are in agreement with the technical comments suggested in the Staff Report and Mr. Marbach reported that they have complied with them all. The restrictions, which he said they are still drafting, will basically be the same as the Greenfield Project on the south side of the road. He then indicated that they will get the nitrate test as requested.

Mr. Doriot asked how they will handle the intermittent drain. The location of the property line was then shown and Mr. Marbach said the lots will be on each side of that line. They will have to retain their water on site, and as the site plans come in, he doesn't believe the staff will let them put any water stored in that particular area.

Mr. Yoder commented that there has been some talk about extending sewer down from Michigan. He asked Mr. Marbach if he was aware of that and he said he was. He explained that this project started around the interchange in about 1995, and at that time, Wightman Petrie was working with White Pigeon. Their firm asked White Pigeon to bring sewer down to this property, but they didn't want to deal with bringing it into Indiana. According to Mr. Marbach, Indiana was competing with them for jobs and businesses and he was told they didn't want to help us out. Since then, he said all of the facilities on the south side of CR 2 have each put in fire wells so they no longer have a need for it. Mr. Yoder then encouraged Mr. Marbach to check again because he just heard this last week and things may have changed.

Mrs. Wolgamood asked if Michigan will require them to connect to sewer, but Mr. Marbach said he thinks they still have the 300 ft. requirement so he doesn't believe it's close enough. He indicated that it depends on how they wrote the White Pigeon ordinance.

When asked if it would be better for this site economically if White Pigeon would extend sewer, Mr. Marbach said probably not. He thinks the market is going to be more of the warehouse

distribution type of facilities, and there may only be ten to 15 employees in a building so it doesn't necessitate the need for large septic systems.

There were no remonstrators present.

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

During discussion, Mr. Sharkey asked if there have been any septic problems in this area. Mr. Watkins said the issue is that it is an extremely shallow water table in parts of the area. Mr. Marbach then pointed out the area that will be some concern on the map, but he said they haven't seen any issues over in the corner (southwest side of the property).

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Doriot*) that the Advisory Plan Commission approve this request as presented, and in accordance with the Staff Analysis and comments of the Technical Advisory Committee with the following conditions imposed:

1. Need restrictions, corrected setbacks, and depth to groundwater for various soils.
2. Need a no-access easement along CR 43 frontage.
3. A Storm Water Pollution Prevention Plan needed before secondary.
4. Check bearing call on south line of parcel 6.
5. Do not discharge storm water into existing watercourse – store water on site.
6. Must comply with Highway Standards.
7. Once the lots start to fill up a T.I.S. will be need to be submitted and you will have to put in a passing blister.
8. Shallow seasonal high water table as indicated in soil boring report. Swale is shown coursing SE through west half of property with extremely high seasonal high water tables indicated. Pivot spray irrigation is present on this site. Note source well location. Must provide three (3) samples for testing of nitrates up-gradient of site. May also test irrigation well (four (4) tests for nitrates total).
9. Wells must have well log documentation to be sampled for nitrates. One community water supply for entire development may be advisable as well as a single wastewater treatment facility sized for this and ideally for the SR 13 and CR 22 business complex. Results must be received prior to secondary approval.

With a unanimous roll call vote, the motion was carried.

7. With regards to the Subdivision Control Ordinance, Mr. Watkins said the intention today was to present the changes that have been incorporated from comments that have been received and the discussions they've had, then make a decision as much as possible to make the draft a more complete final draft.

When asked if everyone has reviewed the draft of the ordinance, a few of the board members indicated they have not completed their review.

On page four, 1.02 Policy, item B of the draft, Mr. Doriot asked if proper provisions for drainage, water supply and sewage disposal includes public or private. Mr. Watkins said yes and pointed out that that is clarified in the last sentence of the paragraph.

The word "shall" in items B and C was then questioned, and after a brief discussion regarding parks, Mr. Kolbus advised the board that necessary qualifies "shall" because it is what the ordinance deems necessary or it is set forth in other ordinances. He suggested that the board circle the word "shall" to revisit at a later time.

Mr. Watkins said there are no other provisions in the ordinance for a park, and the only thing on open space as it reads now is an easement. For example, if you build a subdivision next to a school, it says you need to provide an easement.

Referring to 1.03 Purpose, item C, Mr. Doriot suggested they add a definition of “protection”. He requested a list of definitions in an appendix at the back of the ordinance, but Mr. Watkins advised that there is already a list of definitions.

Mr. Yoder then suggested that they change item C to read: *“To ensure the compatibility, character, economic stability, and orderliness of all development through reasonable design standards while protecting private property rights.”*

Item E on page 5 (1.03 Purpose) was also questioned. Mr. Watkins suggested they change it to say, *“Maintain adequate and accurate records of land subdivision”* and the board was agreeable.

Mr. Doriot then referred to 1.04 Authority and Jurisdiction, item D. He asked if he would have a buildable parcel if he owned a 2.0 acre tract that was created in 1952 where he can put in a well and septic system. Mr. Watkins said anything that was legally created prior to this ordinance would be okay. *(See page 15, item #14 for further discussion on this matter.)*

8. The application for Primary approval of a one lot industrial subdivision to be known as **FOREST RIVER MANCHESTER DRIVE INDUSTRIAL SUBDIVISION**, for Forest River, Inc. represented by Wightman Petrie, Inc., on property located on the East side of CR 1, 600 ft. North of Old US 20 in Baugo Township, zoned M-1 PUD, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081227*. He explained that they want to take these three parcels that cover about 31 acres and make it one lot.

Present on behalf of this request was Kenneth Jones, Jr. of Wightman Petrie, Inc, 4703 Chester Drive, Elkhart. This is a multi-faceted petition as he said there is a rezoning that is schedule to be heard by the commissioners on Monday in addition to this plat. One of the conditions of the pending rezoning was to plat the property so there was a way to permanently create the buffer area, which they are doing with the plat that is before the Board. Mr. Jones said he believes the final plat has also been submitted, but it has not yet been presented to the Board.

Terry Karre, 29741 Old US 20, Elkhart, one of the three residents affected by this development, said they met with Forest River once, but nothing was gained. He is opposed to this project, but he said they would be willing to work with them on a barrier. He indicated they did not want just a couple of trees on the barrier.

Mr. Karre said they learned through the meeting with Forest River that there are three large buildings being planned within two years. They will be surrounded by this industrial park, which he said will affect their property values and living conditions.

When asked what was discussed at their meeting, Mr. Karre said they want to make a six-foot mound on the neighbors’ properties and plant a couple of trees. He said they were originally told there would be one building and he questioned why they couldn’t turn the building.

Mr. Karre pointed out the buffer area on the aerial photo that Manchester Tank put in. He said they want 50 ft. rather than six feet because there will be noise. Although they don’t know what is going in there right now, he said this could be a round-the-clock operation. The three to four residences adjoining this property will be affected by the noise and light, and he said they are opposed to changing the PUD because then they could do whatever they want. He said the

residents will be stuck trying to sell their property with a manufacturing facility sitting right in their back yard that is not consistent with the manufacturing located up the street.

When asked if they will be meeting with Forest River again, Mr. Karre said not until the decision is made. He then indicated they may have to hire counsel to help them protect their rights.

When he sold property to Glaval, Mr. Karre said he specifically had them put in for chassis parking only because they didn't want an industrial park in their back yard. When Forest River bought Glaval out, he said they bought out their agreements too. Forest River does not want to buy their properties, but he said they need to compensate them in some way to protect their property values and livelihoods.

It was pointed out that the map shows a 50 ft. landscape buffer around their property and Mr. Miller asked if they have discussed that. Mr. Karre said Forest River indicated that 50 ft. only gives them four feet on top of a six-foot mound to plant trees and mow.

Mr. Karre then pointed out an approximately 75 ft. wide and 30 ft. tall area of topsoil that came off of a parking lot, which he said has been there 12 years. This is a good barrier so they don't hear the noise and it blocks their view. He suggested they turn the barrier and put it behind the residences, and he indicated they may even sell them some property to do this. He also said they could reduce the size of the building or turn it sideways. With three buildings in two years, he said it will be a direct affect on the three houses that are there. He also suggested to Forest River that they buy their three properties and put in another office building on US 20.

Mr. Karre said they subdivided the property for Glaval so they could extend their chassis parking, and he pays more taxes now than he ever has. They still have somewhat of a country setting, but he said the proposed building will be within 100 ft. from the back of his property line so 50 ft. from that barrier will be the parking lots. He feels this property needs to remain a PUD or they need to have some way to divide the properties like Manchester Tank did with woods.

Also present was Laverne Werner, 29713 US 20, Elkhart, who lives next to Mr. Karre. He questioned what an agreement and contract is and whether they uphold them. When he sold property, he was told this would be M-1 PUD. They made an agreement with the commissioners and Glaval, but now he's being asked to give up that agreement so someone else can come in and make a lot of money. He said he's asking the commissioners to stay with the agreement they made with him originally.

According to Mr. Werner, he had to break up his property so this could be rezoned, and he feels he has given up quite a bit. They rezoned his property and he said he lost his horses due to the rezoning. He questioned if he really has any rights as a homeowner and taxpayer.

Patsy Bucklen, 56260 Dana Drive, Bristol, feels you cannot build an adequate barrier to protect homeowners from the noise and pollution that will come out of manufacturing. If you don't provide an adequate barrier and some restrictions on what they are going to do on site, she said the neighbors will be subjected to noise and smell from the facility.

In response, Mr. Jones said they had another meeting scheduled with the neighbors at 5:00 p.m. today, and also with Mr. Petit, a fourth landowner whose property is catty-corner to the subject property. During their original meeting, he said there were a lot of things discussed and there were things they disagreed on. They agree there will more than likely be some impact, but he said they are trying to do their best within the constraints of the ordinance and the project itself to minimize that as much as possible.

One thing discussed was the 50 ft. buffer area they have proposed and a landscaped designed area with a curvilinear berm. Mr. Jones explained the reason the berm is not very high is

because they want to make sure the slope going to the top can be mowed and maintained by Forest River. He said you can't get a lot of height in 50 ft. with a 4:1 ratio, and in their calculations, the berm ended up between four and six-feet high with plantings on the top.

They met with three property owners and Mr. Jones said there was some level of support from the Morauskis (who live at 29773 US 20) in another option they presented. Rather than putting the buffer on Forest River's property, he said the idea was to do some of the work on the neighbors' properties so they know it will be there forever and it will help impact their property in a better way. That option, he clarified, was not discussed with Mr. Petit.

The plat in front of the Board includes a buffer that he pointed out. He said they agreed to turn that buffer and run it 100 ft. along their east property line to provide additional screening for Mr. Petit. Although the adjoining property (east) located in the City of Elkhart is already zoned B-3, he pointed out they would have little or no control on what goes on that property in the future. He said it would be whatever the city would allow within their B-3 zoning classification and he thinks Mr. Petit is aware of that.

Their immediate plan is for a rectangular shaped building 175 ft. wide and 535 ft. long situated north and south on the east side of the property. He said the statement was made that there could be two more buildings in two years, but it depends on the demand so ten years from now there could also be nothing more on this property.

Also discussed in the meeting was the issue of groundwater. More than likely, Mr. Jones said there is an aquifer that travels south to the river, and apparently the residential users in this area are on personal wells and not connected to city water. They are proposing a site that will connect to city water and sewer that is on their front doorstep. He pointed out the location of a gravity manhole (to the west of the cul-de-sac), and he said there is actually an old water main that runs through their property through an easement that was built, but never used.

Upon approval, Mr. Jones said the facility that Forest River plans to build immediately is an assembly plant for RV's so they will not be using processed water or chemicals. From an environmental standpoint, he said they are not concerned with spills damaging the aquifer in this area. He then indicated that Forest River would be willing to incur the cost of connecting the neighbors to municipal water and pay that water bill for one year should their wells become contaminated. Mr. Jones said that would not be too challenging because he believes there is a water main that runs along old US 20.

There was a PUD on the property 12 years ago, and after reviewing the documents from that public hearing, Mr. Jones said it is correct the three property owners (Karre, Werner and Hayes) filed that petition and they were represented by a representative from the Glaval Corporation. The PUD was approved for M-1, but he said a caveat was added by the Plan Commission. He then reviewed Section 5 of the PUD and the minutes, which indicate that the site development plan was limited to the parking of finished products of Glaval on site with all other uses to be considered a major change to the site development plan. He said they are now coming back to the Plan Commission and reopening those discussions.

In conclusion, Mr. Jones said they agree with the staff's recommendation, and he requested this petition move forward with a favorable recommendation. He reiterated that they will go before the County Commissioners on Monday to discuss the rezoning in more detail, and they have a meeting tonight to discuss the landscape questions with the adjoining property owners.

In order to make the connection to municipal water and sewer, Mr. Jones said the city has the right to review and approve their site plans. The city zoning ordinance has strict requirements

and specifications for screening between unlike uses. He believes the width requirement in their ordinance is 25 ft., but he said they also specify you have to completely visually screen one use from the other by way of a landscape buffer, or by way of some type of fencing with plantings on the residential side of the fence. He said they have to comply with those requirements whether they want to or not in order for the city to sign-off on the plan and allow them to connect to their water and sewer.

Mr. Yoder pointed out that most of today's discussion will be discussed Monday at the commissioners meeting. He then asked if this board can change the buffer that was established with the rezoning by extending the 50 ft. to 75 ft. and he was told they have that option.

Mr. Yoder said the commissioners would like to see everything that Forest River and the landowners agree to at their meeting tonight in writing. Mr. Lantz agreed saying this area will be affected quite a bit and he wants to make sure the neighborhood is happy.

When you sell property, Mr. Doriot said you sell certain rights and there are ways to protect yourself by putting a deed restriction on the property that only you can sign-off on and allow it to be changed.

At the conclusion of their meeting with the three property owners, Mr. Jones said one was open to discuss more detailed possibilities. The other two indicated they would be ready to discuss the details if the request is approved, but until then, they would continue to fight it. Therefore, he doesn't know if it's possible to get an agreement in writing before the commissioners meeting.

If the commissioners deny the rezoning, Mr. Yoder said this proposal could not take place. However, Mr. Burrow clarified that this request is independent of the rezoning because this subdivision could take place under a PUD as well as a straight rezoning.

Mr. Sharkey asked if the landowners were advised they would have to go to the Elkhart City Plan Commission as well and that they would have to put in a private screen. Mr. Jones said it was discussed, but not in much detail. He then clarified that it will go to Elkhart City's staff in their tech review process, but it is not a public hearing.

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

If approved, Mr. Doriot suggested they make Secondary approval subject to the rezoning; however, it was pointed out that #7 of technical conformity contradicts Mr. Burrow's statement. Mr. Burrow reiterated that the subdivision is independent of the rezoning because it already exists as a Planned Unit Development so it was determined that item #7 does not apply.

It was also pointed out that the Plan Commission's motion for the rezoning indicated that voluntary commitments were to be filed with the Board of County Commissioners. Mr. Doriot said he thinks that was pending discussion between the landowners, which the Board does not have yet.

Mr. Yoder suggested they approve the request today with staff comments and he will convey their concern about the buffer to the commissioners, but Mrs. Wolgamood said she would not be opposed to tabling the request until the rezoning is done and Mr. Holt agreed.

Mr. Nemeth said whatever buffer is set at the commissioners meeting the staff can reflect on the Secondary plat, but Mrs. Wolgamood was concerned that they would be giving up any legal means to increase that buffer or increase the height of the buffer to help protect the landowners. She does agree with Mr. Jones that the city will also oversee this, but she is leaning toward the protection of the R-1 zoning classification without a PUD attached to it.

If the petitioner withdrew their request for a rezoning, Mr. Burrow said it would be an M-1 PUD with a 50 ft. buffer. That was never enforced against the property owner so the only issue in

front of the Board at that point in time is whether or not they would request that they submit an amended site plan. The Primary in front of the Board complies with the PUD that was originally envisioned by the Plan Commission in 1995. If the commissioners deny the rezoning request, he said this could still go forward under the existing PUD because it complies with the original intent of that PUD so he suggested this request be approved.

Mr. Lantz commented that the property owners have a lot to lose and Forest River has a lot to gain, and they indicated they would give them an agreement to look at. When the property owners applied under the old PUD process, Mr. Burrow said they weren't required to show any building locations. He said the property owners were not requesting only outside storage in that area, that condition was imposed by the Plan Commission.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Miller*) that the Advisory Plan Commission approve this request as presented, and in accordance with the Staff Analysis and comments of the Technical Advisory Committee (as amended by the Board) with the following conditions imposed:

1. The boundary line must be thick and bold. All other lines need to be a fainter color specifically the City of Elkhart boundary line and the 40 x 200 boundary adjacent to Manchester, which is not part of the legal boundary.
2. Revise the following setbacks in the legend, if included on an industrial subdivision:
 - a. The M-1 front yard setback is 75 feet from County Road 1. You may show this line graphically as well.
 - b. The side yard setback is 25 feet except where it is adjacent to the residential zone, which is 50 feet.
 - c. The rear yard setback is 25 feet.
3. If one acre or more of land will be disturbed, then a SWPPP needs to be approved by the Soil and Water Conservation District before secondary plat approval.
4. Any access to County Road 1 will require a commercial drive permit.
5. Provide a drainage plan at the time of the proposed construction (not required as part of industrial subdivision plat).
6. Must provide and utilize Elkhart sanitary sewer and water as stipulated on the proposed plan.

After further discussion, Mr. Kolbus was asked to clarify the motion and he advised that they are voting on a plat with a 50 ft. buffer. If they want to change that buffer, he said they need to change it now because they cannot impose conditions on Secondary. When you take away a PUD, he said the commissioners cannot impose conditions unless they get some type of commitment from the petitioner. Mr. Doriot added that the commissioners can't require a commitment, it has to be given to them voluntarily and Mr. Kolbus said that is correct.

A roll call vote was then taken and the motion did not carry with the following results: Wolgamood – no; Warner – no; Lantz – no; Sharkey – no; Holt – no; Doriot – no; Miller – yes; Yoder – yes; Burbrink – yes.

After further discussion, a motion was made and seconded (*Yoder/Holt*) that this request for a one lot industrial subdivision be tabled until the April 10, 2008, Plan Commission meeting and the motion was carried with a unanimous roll call vote.

9. The application for an amendment to the site plan support drawing by removing a private 8street extension (stub) to the East property line to be known as ***HIDDEN LAKE RESERVE***

FIRST REPLAT, for Pheasant Ridge Development Corp. Inc., et al (owners) and Pheasant Ridge Development Corp., Inc. (developer) represented by Abonmarche Consultants, LLC, on property located East off of CR 11, 1,500 ft. South of State Line Road in Hidden Lake Reserve, common address of 50800 CR 11 in Osolo Township, zoned DPUD-A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081195*.

Present on behalf of this request was Derek Spier of Abonmarche Consultants, 750 Lincolnway East, South Bend, representing Pheasant Ride Development and the owners of the lots within this replat. He explained that they are submitting this replat to vacate an ingress/egress and utility easement. This subdivision contained private roads and a stub street was planned in this area. According to Mr. Spier, the staff approached the developer and recommended they submit this amendment since the roadway was never constructed. He also said the developer is currently in the process of obtaining the approval letters from the utility companies stating there are no utilities within the easement.

For clarification, Mr. Burrow explained that they submitted an as-built that did not show the extension of the stub street that was shown on the original Site Plan Support Drawing; therefore, he said they either need to construct it or remove it. He further clarified that the site plan for the home they are planning to construct included development on the extension of the stub street. Mr. Burrow said the staff does not understand what impact they would have by allowing a development off of a private road.

In other words, Mr. Sharkey said the new developer would have to put in private streets because there would be no way to put in public streets and drive through a private street to get to the public road and Mr. Burrow said that is correct.

Mr. Spier was asked when he expects the letters from the utility companies and he said it's his understanding they need to obtain the letters before this amendment goes to the commissioners for approval.

There were no remonstrators present.

A motion was made and seconded (*Yoder/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, a motion was made and seconded (*Yoder/Burbrink*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis and comments of the Technical Advisory Committee provided the letters releasing the utility easement are received. The motion was carried with a unanimous roll call vote.

10. The application for Secondary approval of a Detailed Planned Unit Development to be known as **HIDDEN LAKE RESERVE FIRST REPLAT**, for Pheasant Ridge Development Corp. Inc., et al (owner) and Pheasant Ridge Development Corp., Inc. (developer) represented by Abonmarche Consultants, LLC, on property located East off of CR 11, 1,500 ft. South of State Line Road in Hidden Lake Reserve, common address of 50800 CR 11 in Osolo Township, zoned DPUD-A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081189*.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Miller*) that the Advisory Plan Commission grant Secondary

approval in accordance with the Staff Analysis provided the letters releasing the utility easement are received. With a unanimous roll call vote, the motion was carried with a unanimous vote.

11. The application for a zone map change from A-1 to a Detailed Planned Unit Development-A-1 to be known as **LB SCHLABACH'S NEW BEGINNING DPUD**, for Lavern Schlabach represented by Brads-Ko Engineering & Surveying, Inc., on property located on the South side of CR 34, 830 ft. West of CR 43 Clinton Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081220*. He clarified that the petitioner wants to rezone the property and subdivide it in the future where the two single-family houses will be on their own lots. The business plan is to add a second manufacturing building, increase outside employees from four to eight, and increase the operation from five to six days a week. They would also like to increase the size of their advertising sign from 20 to 60 sq. ft. Mr. Nemeth then pointed out that when subdivided, 3 to 1 depth to width ratio Variances would be needed on the lots that contain the homes.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th St., Goshen, was present on behalf of this request representing Arlene Burkholder, the principal of LB Woodworking, and Lavern and Paul Schlabach, the principals of Schlabach Hardwoods. Today they are introducing LB Schlabach's New Beginnings, and after displaying a site plan (2/26/08), he went on to describe the location of the subject property and surrounding area.

According to Mr. Pharis, their plan is to create a Detailed Planned Unit Development and then subdivide it into three separate lots. The first lot would be the residence for Lavern and Fannie Schlabach; the second lot that consists of about 14 acres would become the residence of Paul and Arlene Schlabach; and the business would be located in the center of the 28 acres (lot 3).

Mr. Pharis explained that Lavern's father started doing woodworking in the barn of this residence in the early 1990's. In 1995, Lavern took over the business and he applied for a Use Variance to establish his building and generate the business growth. At that time, he agreed not to expand the business, and to date, he has complied with what he agreed to in 1995. About the same time, Mr. Pharis said Lavon Burkholder was creating LB Woodworking in Marshall County. Their business constructs benches and chairs while Schlabach Hardwoods constructs trim and stair cases. He said there is absolutely no refinishing on site. Both businesses, totally unrelated, grew their markets and became successful.

Mr. Pharis went on to explain that Lavon Burkholder passed away unexpectedly a little over five years ago. Arlene and the four children, with the help of friends and elders of the church, have kept the business operational. He then reported that Paul Schlabach and Arlene Burkholder plan to marry this summer, and that decision has created a new set of issues to resolve.

After describing their various options, Mr. Pharis said the proposed solution is to relocate LB Woodworking to CR 34 and combine purchasing of materials and supplies, and construct a new building with current technology regarding dust collection and scrap collection systems. He said the scrap and dust currently provides bedding for local farmers and that would be expanded, and it would also become a profit center for the businesses.

He went on to explain that they would have a single diesel generator to provide power and heat, and with the Board's approval, they could try to grow this business. In addition to Lavern, Arlene and the four children, there would be four outside employees in each operation, which he pointed out is really no different than today's four outside employees for Schlabach Hardwoods.

Mr. Pharis said they have completed a line-of-sight survey for CR 34, and they have submitted a Traffic Impact Study (TIS) to the Elkhart County Highway Department and have received their response. Their TIS indicates negligible impact to CR 34 and the only requirements they're asking are ingress/egress tapers for the purpose of safe access to the new driveway, and then milling and repaving taper to taper.

A letter that Mr. Pharis mailed to 35 nearby property owners on February 18, 2008, was then submitted to the Board *[attached to file as Petitioner Exhibit #1]*. Of the 35 letters, he received two responses, which he noted are copied on the bottom of the letter. His office received no phone calls from anyone in the community, and in checking with the Planning staff, he said they have not received any phone calls or comments from the public regarding this petition. The neighbors that surround this site know exactly what they are doing, and he said they either agree or are not bothered by their actions.

The Staff Report concerns the conflict of agricultural and single-family; however, Mr. Pharis said their buildings look like large barns and the distance to any residence that is not a participant of this petition is in excess of 600 ft.

He then submitted a fact sheet on noise levels in our environment *[attached to file as Petitioner Exhibit #2]*. After reviewing the fact sheet with the Board, he said any noise pollution to anyone in this community will be negligible. He also said the impact to the neighbors, other than providing animal bedding and jobs, will be negligible and not a quality of life issue.

The whole ideal of relocating to Elkhart County is to create a future for Paul, Arlene and the four children. In the worst case scenario where none of the children want to be included in the business in the future, Mr. Pharis said the mechanisms of the DPUD ordinance moves into place and protects the neighbors, the County and the Plan Commission as they have stipulated the business use, its maximum growth and its hours of operation.

With regards to the staff's comment about Saturday operations, Mr. Pharis said this is when they occasionally do their maintenance and repairs of equipment. He also said it is the time when neighbors come in and pick-up bedding so that's why they have included Saturday. He then pointed out that any deviation from what they have stipulated in their narrative report, on their plan and on the plat will come back through the process for approval. There will be a public hearing and he said the neighbors will be notified so today's action opens no unknown door or future option.

In conclusion, Mr. Pharis said this is not a religious issue. It's primarily an economic issue for the petitioners and the residents of this CR 34 community who will now have opportunities close to their home without having to drive to manufacturing or businesses outside of this area. He feels they have addressed the staff's concerns and he does not believe they are a negative impact to this community, which he described as CR 34 between CR 41 and CR 43.

When asked how current employees come to the site, Mr. Pharis said by bicycle and one drives a car. At full growth, he said their narrative report says they will have a taxi drop employees off in the morning and then come back and pick them up at night. If you agree with the TIS, he said there's not a lot of traffic on this road. They have some trucks and they have been identified, but he said he increased the numbers of the truck traffic to make sure they are within that limit.

If approved, Mr. Yoder asked if the narrative and traffic reports would be attached to the DPUD. Mr. Pharis said the narrative becomes part of the stipulations and that is the criteria they are expected to operate within. He reiterated that any deviation by complaint or action would come back to the Plan Commission and if it's deemed major, it would then go back to the commissioners.

Mrs. Wolgamood pointed out that the DPUD indicates certain people to live in the residences and she asked if any action would include the sale of the property. Mr. Pharis said he's not specifying that Lavern and Fannie will live there forever, he is just saying they are separating the property and creating it in such a way that they can pasture their horses. They are doing the same thing for Paul and Arlene's large parcel, and he said they have tried to make sure that their owners are going to be living around the buildings so they are significantly buffered from any neighbor. He then pointed out the location of the closest neighbor they could impact who is not an owner, which he indicated is over 600 ft. If Lavern and Fannie's house is sold in the future, he said the buyer would know the business is there. He feels that realistically, another Amish family would purchase the property, or one of the four children who is going to raise their family there and still be close to the business.

Mr. Yoder pointed out that the narrative uses the words "intention for ownership" so he asked if a change in ownership is minor and not required to come before the Board. Mr. Kolbus said they usually do not dictate in terms of ownership, it goes with the use of the property. Mr. Pharis then indicated they could designate the land use by lot.

Mr. Warner asked if the site is designed to get the semi trucks entirely off the road. Mr. Pharis said the radius, the width and the throat are designed so a semi can pull forward in, go onto the site and turn around, and then pull forward out so they will not have an issue of a semi backing in and pulling out.

Mr. Pharis pointed out there is a large number of businesses on CR 34 with even more over into LaGrange County. The actual traffic count is under 900 and he said their projection of growth does not require a passing blister. However, the Highway Department looked at it and said their projection for the future is over 1,000, which requires a passing lane.

When questioned about the size of the sign (6 x 10), Mr. Pharis indicated that 20 sq. ft. would be adequate as this is not a retail business. He also indicated that the sign would not be lighted.

Also present was Paul Schlabach, 11186 CR 34, Goshen. He said the current employees at LB Woodworking are friends, a bishop and an elderly man who are only there to help out. He said he wanted to make sure the Board understood they would not be taking jobs away from anyone if the business is moved to Elkhart County. He then clarified that Arlene's oldest sons are 14 and 15 and they are hoping to keep this business, which their father started.

There were no remonstrators present.

A motion was made and seconded (*Sharkey/Holt*) 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, a motion was made and seconded (*Doriot/Sharkey*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved as presented and in accordance with the comments of the Technical Advisory Committee with the following conditions imposed:

1. B and C are inconsistent in the legend on both sheets. Also, C should have a box around it as shown in the legend and dimensioned if it is an easement so that it is not confused as just a driveway.
2. Note 2 regarding parking under Deviations from Ordinance are inconsistent with the parking description in the Narrative and parking spaces shown graphically. A time line should be provided in the narrative about the construction of the parking spaces (will they all be constructed at once?). The southern most parking space is boxed and appears to have

included a stray line enclosing it. Also, the Building Department may require in the future 1 handicapped space to follow ADA federal law.

3. Under the legal description, change note 5 the last sentence from “if” section 14 to “of” section 14.
4. On sheet 1 of 2, the words “Proposed commercial building” are doubled up by the graphic.
5. On sheet 1 of 2, notes 17 and 18 are inconsistent.
6. Show the location of the sign graphically (Requirement p, p.11 of Zoning Code).
7. Specify the materials and style of the new building (Requirement o, p.11 of Zoning Code)
8. Reminder: All structures are assumed to be in compliance with the regulations unless specified by the surveyor under the Deviations From Ordinance. The surveyor may wish to review the following items:
 - a. The calculated square footage of the personal storage of accessory structures exceeding the primary structures per lot.
 - b. The front setback in relation to the distance to the covered concrete porch.
9. The size of the sign limited to 20 sq. ft.

The motion was carried with the following results of a roll call vote: Wolgamood – no; Warner – yes; Lantz – yes; Sharkey – yes; Holt – yes; Doriot – yes; Miller – no; Yoder – yes; Burbrink – yes.

12. Addressing the Board in an audience item was Art Enns, 55384 Falling Water Drive, Elkhart, who is the president of the homeowners association for Brookside Subdivision. There are 41 residences in this new subdivision and he said they have Elkhart city sewer and water with a compact fee. They are charged 75% of city taxes through the compact fee and 100% of county taxes because their property is in the county; however, he said they are not eligible to be annexed into the city because they are not contiguous to city property.

According to Mr. Enns, city water and sewer goes past their property along Old US 20 and it services the new Wal-Mart on the corner. He asked the Board how they should proceed so they do not have to pay double taxes on the residences in the Brookside Subdivision.

When asked how far away they are from the city boundary, Mr. Enns said less than two miles.

Mr. Yoder recommended that he talk with the mayor of Elkhart and advise him they would like to be annexed, but Mr. Enns didn’t feel that would be helpful because they are in the county and they have no voting privileges in the city of Elkhart.

Mr. Doriot questioned the initiation of the sewer connection and Mr. Enns explained that the developer, Weiss Homes, made an agreement with the city to extend water and sewer to that subdivision so they could sell it. Their sales sign indicated county taxes, but he said they never mentioned there were city taxes connected to it.

When asked why they want to be annexed, Mr. Enns said they want to obtain the regular services of city residents such as police services and garbage collection. He explained that he tried to talk with the previous mayor of Elkhart to no avail, but he has not yet attempted to speak with the new mayor. Mr. Doriot then suggested he go to the city council meeting and sign-in to speak as an audience item and Mr. Yoder agreed.

A brief discussion then followed regarding the county’s feelings on annexation and taxes. The Board indicated that the county would have no opposition to this subdivision being annexed, and Mr. Enns was advised that their taxes would go up as they would pay both county and city taxes if annexed.

13. Mr. Burrow distributed copies of a site plan (attached to file) for ***Midwest Farmers Market at American Countryside***, which is located on the northeast corner of CR 26 and SR 19 in Concord Township. He explained that the American Countryside market is a separate entity from the developer and they have established outside vendors, which was never approved on the original site plan. He clarified that the red at the top of site plan is the existing Farmers Market building, and to the south is the vendor areas they are proposing. According to Mr. Burrow, buildings B1, B2 and B3 shown in yellow already exist on site.

Mr. Yoder asked if Mr. Bachman, who was recently hired, will be better at communicating with the planning department and if management has improved and Mr. Burrow replied yes. He said Mr. Bachman understands there are site plans and that you have to comply with them, but they're not in the position to submit to him a proper site plan. He also said that Mr. Bachman has not been working with them long enough to actually come up with a good business plan.

Mr. Burrow went on to explain that the objectives they are trying to establish for this year include the event tent shown on the east side (by yellow boxes), and the quilt and garden parking and a petting zoo out toward CR 26. When asked what type of petting zoo, Mr. Burrow said he had no idea.

He went on to say that they are requesting general approval of up to five outside vendors and the event tent so they are not in violation of the site plan. He also asked that the Plan Commission direct them to submit a comprehensive site plan by December 2008 so the staff can review this in detail and get them under a proper site plan.

Mr. Miller clarified that the only permanent structures are the yellow numbered buildings and Mr. Burrow said that is correct. He then referred to the photo attached to the site plan that illustrates the cabin-type buildings they are proposing to construct.

After further discussion, Mrs. Wolgamood moved that the Plan Commission consider this request for a maximum of five (5) outside vendors (indicated in yellow) as a minor change to the site plan with any additional requests required to come back to the Plan Commission for a major site plan revision. Mr. Yoder then seconded the motion.

Mr. Watkins expressed a concern that this has already been done without approval and their intention is to fill the parking lot with buildings. He said the staff needs direction as to what happens if they continue to put buildings up, which is likely to happen, and Mrs. Wolgamood said it would then become a code violation and should be turned over to the board's attorney.

The motion was then carried with a unanimous roll call vote.

* *(It is noted that Mr. Sharkey was not present for the remainder of the meeting.)*

14. In continued discussion regarding the Subdivision Control Ordinance (*see page 3, item #7 for previous discussion on this matter*), Mr. Doriot suggested they have a workshop after work hours or in the evening for a couple of hours in the next week or two with Plan Commission members' participation only.

Mr. Kolbus advised that it would be a special meeting and would have to be noticed through the Open Door Law. They would only allow the staff and Plan Commission to participate, but he said anyone can listen and make notes.

Once the Board is in agreement on a draft ordinance, it was also suggested they hold a separate meeting for the developers.

Potential dates and times were then discussed and suggestions were made of having an extended workshop on April 3rd or changing the time of the workshop to the evening. Several board members felt they should allow more than two hours for this discussion.

A tentative date was then set for Tuesday, April 1, 2008, at 4:00 p.m. at the Department of Public Services Building.

15. The meeting was adjourned at 11:44 a.m.

Respectfully submitted.

Kathleen L. Wilson, Recording Secretary

Jeff Burbrink, Chairman