

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 10TH DAY OF AUGUST 2017 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, Roger Miller. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Mae Kratzer, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: Steven Edwards.

2. A motion was made and seconded (*Warner/Lucchese*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 13th day of July 2017, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Burbrink/Lucchese*) 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 40 lot major subdivision to be known as EVERGREEN RIDGE, for Evergreen Ridge, LLC represented by Progressive Engineering, Inc., on property located on the West side of CR 35, 1,868 ft. South of CR 14, in Middlebury Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #MA-0426-2017*.

Paul Comino, 124 E. Washington, Millersburg, was present. He stated that this subdivision was planned for 60 lots however it is now 40 lots due to the soil types. He added that they tried to get the sewer from the school that is nearby, but due to the cost they chose to do well and septic. He mentioned that there is a huge demand for housing in Elkhart County. He stated that he believes it will not take long for the properties in this subdivision to sell if this is approved. Mr. Stump questioned if the septic systems will be conventional, which Mr. Comino confirmed. When Ms. Snyder questioned the housing being manufactured, Mr. Comino stated they will be stick built homes. Ms. Snyder questioned the lot price range. Mr. Comino responded that they will be \$39,000 up to \$60,000, and that the three acre lots could be \$100,000. Mr. Campanello questioned if the smaller lots will be around the 23,000 square foot range, and Mr. Comino responded yes. When Mr. Burbrink questioned the access being exclusive off of CR 35, Mr. Comino answered yes, and there is also a stub on the Northwest side into Farmington Subdivision. He added that the road studies have been done and the speed limit may be reduced to 45 mph.

Jeremy Buckmeier, 56208 Bridle Path Dr., Middlebury, was present in remonstrance. He stated that the proposed petition will be connected to the subdivision he resides in. He stressed that he is concerned with additional traffic driving through the subdivision. He mentioned he is also concerned with the slope coming down to Farmington Subdivision. He added that he is also concerned with their property values with the new subdivision being proposed. Mr. Campanello questioned what road the traffic would come from to cut through their subdivision to get to the proposed subdivision. Mr. Buckmeier stated that the access point to Farmington Subdivision is off of CR 14. Mr. Burbrink explained that the reason they put those stub roads in is for a secondary exit. As an example, if for some reason CR 35 is blocked, the emergency personnel can get through with a different route.

Mr. Burbrink mentioned that with the petition being a subdivision, the Plan Commission must approve the subdivision if it meets the Ordinance standards.

Marlin Yoder, 14434 CR 14, was present in remonstrance. He mentioned that he is North of the subject property, and his land borders the full width of the proposed subdivision. He stated that he is concerned where the runoff will go since he did not see any retention ponds. He added that the entrance to the subdivision is right on a crest of a hill on CR 35. He questioned two family homes and the property needing to be rezoned. Mr. Burbrink stated that the petitioner can address those questions and concerns. Mr. Yoder questioned if the owner can have two family residences without rezoning. Mr. Auvil stated from the audience that the single and two family residences are allowed in an A-1 zone. Mr. Yoder stressed that he is mostly concerned about the runoff going onto his property. Mr. Campanello asked Mr. Yoder if he saw the plans for the subdivision. Mr. Yoder responded that he had not. Ms. Snyder stated that there are two large retention ponds. Mr. Campanello added that the petitioner can help answer Mr. Yoder's questions.

Ron Troyer, 56741 CR 35, was present in remonstrance. He stated his property is South of the subject property. He questioned if there were going to be turn lanes into the subdivision added. He explained his concerns about traffic and the speed limit on CR 35. He mentioned that with the Farmington Subdivision there was supposed to be three phases; however, the third phase was never developed. He stated he is concerned with extra traffic through that subdivision and exiting onto CR 14. He stressed that his biggest concern is the water and the retention ponds. He mentioned that one side of his property touches Lippert's property. He explained that there are times where the water from Lippert's retention pond is running across the field because of it overflowing. He questioned the Board about how deep the retention ponds need to be, and if the water will be standing in the pond continuously. He also stated his other concern is the field tile on his property. He mentioned that he had a book with him that is named Soil Survey of Elkhart County. He read from the book about soil called CosB Loam. He questioned if the drainage easement had any effect on the lot. Mr. Barker answered no.

Kenneth Jones Jr., 14685 Farmhouse Dr., was present supporting the petition. He stated that he thinks there should be a rezoning to make this A-1 zone to an R-1 zone. He mentioned that it is a clear change in land use from agricultural to single family residential. He added that he felt compelled to come and voice his opinion about the zoning for the subdivisions.

Vicki Myers, 14736 Country Side Court, was present in remonstrance. She stated she has concerns with the intersection of CR 35 and CR 14. She continued stating that the Northwest corner and the Southwest corner both have drop offs. She mentioned that it is not a highway and it is a two

lane road and the traffic is horrendous. She added that she felt disheartened when Mr. Burbrink stated the county has to approve the subdivision as long as the subdivision meets the standards. She questioned if her voice would be heard. Mr. Burbrink stated that the Board has a list of questions that they have to ask to make sure the standards are met. She questioned about stick built homes and what the definition is. Mr. Campanello stated that the definition of stick built homes has changed throughout the years. He continued stating that a home can be bought already built and be delivered on a semi truck. Ms. Myers mentioned that different people in different industries have different definitions on stick built homes.

Paul Comino returned to the podium stating that the homes would not necessarily be stick built homes. He stressed that they will be built to the state code, and there will be a mix between modular and onsite construction. Mr. Campanello questioned about the homes having basements. Mr. Comino mentioned that most of these homes will be able to have basements. Mr. Miller questioned plans for multi-family. Mr. Comino stated that there are no plans for multi-family. Mr. Comino added that there are three retention ponds. He explained that they had to reduce the amount of lots to obtain retention ponds. He continued to address the traffic concerns, mentioning that the Highway Department is aware of the traffic flow on CR 35. Mr. Burbrink questioned field tile and what the procedure would be. Mr. Comino stated that field tile is mostly for drainage of agricultural parcels, and the drainage from the streets and retention ponds would address what would be forfeited by cutting into a field tile. Mr. Stump questioned about the direction that the field tiles drain. Mr. Comino stated the slope is from the West to the South. Mr. Burbrink stated that he urges the petitioner to have a policy in place so that it does not affect the people that purchase the lots but also the neighboring properties. Mr. Comino agreed, and stated that drainage is a concern in this region. There was talk amongst the Board members about the drainage. Mr. Barker stated that by blocking the field tiles the subdivision would be affected. Mr. Barker mentioned that Mr. Troyer to the South would not be affected and may see even less water coming onto his property. Mr. Barker added that they need to be concerned about what they will do with the water that will remain on the subdivision site. Mr. Barker stated they cannot drain their perimeter drains for their houses or septic to the retention areas. He mentioned that those retention areas are for storm runoff only. Mr. Stump questioned if the basements will have to have pumps to keep the water out. Mr. Barker stated that they might need the pumps. Mr. Miller questioned if there will be a blister for the traffic. Mr. Comino answered that there is a blister for sure, but he is unsure at this time if it will be a turn lane. He added that the speed may be reduced. Mr. Comino mentioned that there is a huge demand for housing in this County.

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

Mr. Barker stated that the questions for the drainage need to be answered before the petitioners can do anything. Mr. Campanello stated that the homes in the subdivision are being advertised with basements. He added that there is also talk about pumps being added into the basements. Mr. Warner mentioned that the water level is his biggest concern. Mr. Barker stated that in the plans there are a number of soil borings done out on the subject property. He mentioned that there are reasons for the two large lots. He added the two large lots were constructed due not being able to build more than two residences. Mr. Miller mentioned that this is a logical place for the

subdivision. He added that they haven't talked about a rezoning to R-1. Mr. Barker stated that if it is rezoned to R-1 it opens a door for the petitioner to create smaller lots. Mr. Burbrink stated that their job is to make sure it meets the standards.

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 Primary approval of a 40 lot major subdivision to be known as EVERGREEN RIDGE be approved in accordance with the Staff Analysis.

Vote: Motion passed (**summary:** Yes = 7, No = 1, Abstain = 0).

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

No: Lori Snyder.

5. The application for Primary approval of a 14 lot major subdivision to be known as WESTGATE RIDGE, for Gordon R. Shaum Revocable Living Trust represented by Abonmarche Consultants, on property located on the East side of CR 1, 2,200 ft. North of CR 4, in Cleveland Township, zoned A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as Case #MA-0519-2017.

Barry Pharis, Abonmarche Consultants, 1009 S. Ninth St., was present representing the petitioner. He stated that the 46 plus acre lot is for a proposed 14 lot subdivision. He mentioned that it will be similar to Blackstone on CR 2. He added that it will be a gated community, and the streets will be private. He mentioned that those private streets will be owned, and maintained by the 14 lot owners. The private streets will be constructed to Elkhart County standards. He added that those plans will be sent to the Highway Department for a review. He mentioned that private streets in Elkhart County have gotten a bad reputation. With some of the reasons being poor quality of original construction, future repair and maintenance of those roads, and homeowners are unaware of the streets being private. Mr. Pharis submitted a sheet of paper explaining the private road [*attached to file as petitioners exhibit #1*]. He explained that the post office and emergency personnel will have access to the gated community. He also addressed questions on what if the owners want the street to be public and maintained by the County in the future. He stated that they will have to make sure that all the homeowners agree, they need proper drainage, and the Highway Department needs to accept the road. Mr. Campanello questioned if there is an escrow account for the association. Mr. Pharis responded that there will be an escrow account created for the homeowners association. Mr. Campanello questioned if the escrow account will feed during construction due to not selling the lots at once. Mr. Pharis answered yes and that when all the lots have been bought, the escrow will then help pay for the maintenance of the private roads. Mr. Pharis stated that there is a drainage path, which it will continue as it always has. Mr. Campanello questioned if there are water problems. Mr. Pharis responded that he is unsure of water problems. He added that the development will have zero impact to the neighbors adjacent to the North, South, and East of the subject property. Mr. Campanello stated that on the proposed plan it shows that it will tie into another subdivision. Mr. Pharis stated that it will not tie in to the Southern subdivision due to being a gated community.

He added that on the original plan it shows that the proposed subdivision was going to be tied into the Southern subdivision. He mentioned that the land owner wants the lot and the updated plans show there is no access to the Southern subdivision. Mr. Barker stated that he would like to see new drainage calculations. Mr. Pharis responded that the Board will get those.

Tim Miller, Fireside Homes, 21920 CR 45, Goshen, was present. He stated that he is a developer for the project and one of the land owners. He explained the main reason they are asking for the private roads is due to the gate. He mentioned that younger families like the idea of the gated community. He stated that most of the homes will be built on site and the lots will be \$80,000 plus. He mentioned that the escrow account and restricted covenants will be set up. He added that he will be handling the architectural control. He explained that the private streets will be built to highway standards.

Julie Noblitt, 30065 Fox Trail, Elkhart, mailed in letter in remonstrance [*attached to file as remonstrator exhibit #1*]. She wrote in stating that her concern is the traffic for her children playing and the rural character.

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

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for Primary approval of a 14 lot major subdivision to be known as WESTGATE RIDGE be approved in accordance with the Staff Analysis.

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

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

6. The application for a Zone Map change from A-1 to M-1, for Jeffery K. & Karen S. Smaka, on property located on the East side of CR 23, ¼ mile South of Industrial Drive, in Washington Township, zoned A-1, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case #RZ-0516-2017*.

Jeff Chupp, 54560 CR 17, Elkhart, was present. He stated the petitioners are going to retain the 10 acres at the top left of the property and will be a one lot minor subdivision. He mentioned that the house on SR 15 will remain as is and will be a second one lot minor subdivision. He added that the one residence will be maintained by the petitioners and the other by Horizon. He explained that they spoke with the Highway Department and the Town of Bristol is aware and in favor of this petition.

There were no remonstrators present.

A motion was made and seconded (*Lucchese /Stump*) 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 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 = 8).

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

7. The application for a Zone Map change from A-1 to a DPUD A-1 and for a Primary approval of a 1 lot minor subdivision to be known as DAMAR WOOD PRODUCTS D.P.U.D., for TMD Holdings LLC represented by Abonmarche Consultants, on property located on the West side of CR 100, 750 ft. North of CR 52, in Locke 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-0520-2017*.

Barry Pharis, Abonmarche Consultants, 1009 S. Ninth St., was present representing the petitioner. He stated the business is being operated off of CR 100, and the business has out grown of the home workshop. He mentioned that they have been working with the petitioner for about a year to move the business. He explained that the D.P.U.D for the project will utilize only 10 of the 30 acres. He added that the balance of the property is projected for sale. He mentioned that there are multiple businesses around and on CR 100 and CR 52. He stated by relocating from the east to the West side of CR 100 will separate the business from residential. He added that the business has not received any complaints, and is hoping for approval.

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** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a Zone Map change from A-1 to a DPUD A-1 and for a Primary approval of a 1 lot minor subdivision to be known as DAMAR WOOD PRODUCTS D.P.U.D. be approved in accordance with the Staff Analysis.

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

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

8. RiteWay State Road 13 DPUD was presented by Jason Auvil. The request for a minor change for the addition of a sign to the approved site plan support drawing. He stated the Board received in their packets a copy of the email, pictures of the sign, and where it will be placed.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Frank Lucchese that the Board

approve the request as a minor change.

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

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

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

Mr. Auvil reported that on July 17, 2017, the Board of County Commissioners approved a Vacation of Right-of-Way for People’s Bible Church, Zone Map changes for Robert Fuller Trust, Antoinette Carmel Fuller Trust, Nancy and Paul Dishong, and Lee Garner and Jamie Miller. Also, a Zone Map change and Secondary Approval of a 5 lot Major Subdivision to be known as Elkhart East Area ‘B’, and Secondary Approval of 14 lot Major Subdivision to be known as Elkhart East Area ‘B’ Phase 1.

10. Subdivision Control Ordinance Amendment was presented by Chris Godlewski.

He stated that he is handing out a copy of the changes for the Subdivision Control Ordinance. He stated that it shows what exists and what is proposed. He mentioned that Chris Marbach had comments about the common areas. Mr. Godlewski stated that Mr. Marbach had questions about how the liens and the interest of the deeds would work. He added that the concepts that are being talked about are not monumental.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Frank Lucchese to accept proposed changes to the Subdivision Control Ordinance and set for public hearing on September 14, 2017.

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

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

11. A motion was made and seconded (*Stump/Lucchese*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:28 a.m.

Respectfully submitted,

Kristi Shaffer, Recording Secretary

Roger Miller, Chairman