

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

March 18, 2013

President Terry Rodino called the meeting to order at 9:00 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Mike Yoder and Frank Lucchese, were also present. Others present were Sheriff Brad Rogers; Pauline Graff, County Auditor; Gordon Lord, County Attorney; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Minutes of the March 4th & 11th, 2013 meetings and placed them on file.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an out-of-state travel request for C. Brunson & K. Krueger to go to Nashville, TN in April for a Lead Hazard Control Managers Training. The cost will be paid from the grant.

Brian Mabry from planning and development presented a request for Gloria Kopf and Kuert Concrete, Inc., represented by JPR for a zone map change from B-3, B-3 PUD and DPUD-M-1 to a Detailed Planned Unit Development-B-3 and a Detailed Planned Unit Development-M-2 to be known as Kuert DPUD located on the southeast corner of SR 15 and US 20 in Jefferson Township. The Plan Commission has sent this to the Commissioners with a favorable recommendation. There were no comments from anyone in the audience. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the zone map change request and adopted an ordinance establishing the zone map change. The Site Plan/Support Drawing is part of this Ordinance and shall be maintained in the files of the Elkhart County Advisory Plan Commission.

The Ordinance is as follows:

ORDINANCE NO. PC2013- 04

AN ORDINANCE TO AMEND THE ELKHART COUNTY CODE 36-7-4-600 MORE SPECIFICALLY ARTICLE 2. DISTRICTS AND ZONE MAPS FOR REAL ESTATE DESCRIBED IN THIS ORDINANCE FROM B-3, B-3 PUD and DPUD-M-1 TO A DETAILED PLANNED UNIT DEVELOPMENT-B-3 AND A DETAILED PLANNED UNIT DEVELOPMENT-M-2 TO BE KNOWN AS KUERT KOPF DPUD; AND BY CHANGING THE ZONE MAPS INCORPORATED BY REFERENCE IN ARTICLE 2. DISTRICTS AND ZONE MAPS OF THE ELKHART COUNTY ZONING ORDINANCE

WHEREAS, Gloria Kopf & Kuert Concrete, Inc. submitted a petition to change the zone maps for the real estate described in **SECTION 1** of this ordinance from B-3, B-3 PUD and DPUD-M-1 to a DPUD B-3 and a DPUD M-2 on November 5 2012;

WHEREAS, The Site Plan Review Committee did critique the petition as submitted and made those comments part of the file for consideration by the Elkhart County Plan Commission;

WHEREAS, The Staff for the Elkhart County Advisory Plan Commission did cause the publishing of the legal advertisements for the Public Hearing in **The Elkhart Truth** on the 4th day of February 2013 and in **The Goshen News** on the 2nd day of February 2013 and did mail as prescribed by Rule and Law the Notice of Public Hearing to all persons of record with in 300 feet;

WHEREAS, The Elkhart County Advisory Plan Commission did hold a public hearing as provided by law on the 14th day of February 2013 and did take public input at that meeting;

WHEREAS, The Elkhart County Advisory Plan Commission did give reasonable regard to the criteria established by IC 36-7-4-603 and Specifications I - Planned Unit Development of the Elkhart County Zoning Ordinance; **And**

WHEREAS, The petition was sent to the Board of County Commissioners for Elkhart County with a Favorable Recommendation and reasonable Conditions as outline in this Ordinance.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY INDIANA, AS FOLLOWS:

SECTION 1. That the legal description of the real estate attached hereto as **Exhibit A** is made a part of this ordinance and incorporated herein by this reference.

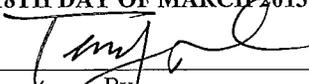
SECTION 2. That the real estate described in **SECTION 1** of this Ordinance be rezoned from DPUD-M-1 to DPUD-M-1 (Lot 2) and from B-3 and B-3 PUD to DPUD B-3 (Lot 1) and From DPUD M-2 to DPUD M-2 (Lot 3) effective immediately and the zone maps adopted by reference in Article 2 of the Elkhart County Zoning Ordinance for Elkhart County, Indiana be amended and ordered amended and changed to reflect the said rezoning of said real estate.

- SECTION 3.** That the Detailed Planned Unit Development be granted for the real estate described in **SECTION 1** of this Ordinance. Unless this Ordinance specifies to the contrary, all Development Standards for Lot 1 as B-3, for Lot 2 as M-1 for Lot 2 and Lot 3 as M-2 Zoning Districts as detailed in the Elkhart County Zoning Ordinance will be enforced and govern the use of the real estate, though the Development Plan and Site Plan/Support Drawing will supersede all otherwise applicable **Permitted Uses, Special Uses, and Development Standards** under the B-3 for Lot 1, M-1 for Lot 2 and M-2 for Lot 3 zoning district.
- SECTION 4.** That all Development Plan(s) must be submitted to the Plat Committee of the Elkhart County Advisory Plan Commission for approval as a Secondary Plat; Secondary approval shall be granted only if the Development Plan(s) comply with the provisions of this Ordinance, the Site Plan/ Support Drawing, and the Subdivision Control Ordinance. The Development Plan(s) shall be incorporated into this Ordinance by this reference. All Secondary Plats will reference this Ordinance and if the intent of this Ordinance or the Site Plan/ Support drawing is not clear the Secondary Plan may be considered by the County Advisory Plan Commission at a Public meeting.
- SECTION 5.** That the Site Plan / Support Drawing is made part of this Ordinance by this reference and shall be maintained in the files of the Elkhart County Advisory Plan Commission.
- SECTION 6.** This Detailed Planned Unit Development Ordinance will limit the use of this real estate to what has been shown on the Site Plan / Support Drawing.
- SECTION 7.** Reserved
- SECTION 8.** Reserved
- SECTION 9.** Reserved

SECTION 10. In the event any covenant, restriction, provision or section of this Ordinance or any portion thereof is declared invalid or void, such declaration shall in no way affect any other covenant, restriction, or section.

SECTION 11. This Ordinance shall be in full force and effect from and after its passage and approval in according with the law.

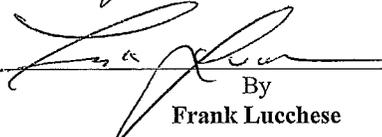
**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA
THIS 18TH DAY OF MARCH 2013**



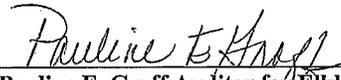
By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 

Pauline E. Graff Auditor for Elkhart County

EXHIBIT A Legal Description

Legal Descriptions

Lot 1 as the said lot is known and designated on the recorded plat of Kuert Concrete US 20 DPUD, recorded in Plat Book 32, Page 65, Elkhart County Recorder, and a part of the Northeast Quarter of Section 15, Township 37 North, Range 6 East, Jefferson Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence along the north line of said Northwest Quarter South 87°55'00" East 1,331.73 feet; thence South 0°27'11" West 73.54 feet to a bar and cap on the south boundary of US 20 at the place of beginning of this description; thence South 0°27'11" West 424.58 feet to a bar and cap stamped 29400012; thence South 0°23'18" West 505.11 feet to a 2 inch pinch pipe; thence South 89°44'18" West 819.81 feet 1.5 inch iron pipe; thence North 57°51'43" West 276.97 feet to a BradsKo bar and cap on the south line of said Lot 1 of Kuert Concrete US 20 DPUD; thence along said south line North 88°51'12" West 145.06 feet to the east boundary of State Road 15; thence along said east boundary North 2°16'56" East 52.63 feet; thence continuing along east boundary North 12°19'30" West 201.49 feet; thence continuing along east boundary North 0°06'13" West 252.81 feet; thence continuing along a job in said east boundary North 88°01'12" West 9.05 feet; thence continuing along east boundary North 0°13'04" West 273.13 feet; thence North 43°42'00" East 64.19 feet to a point on the south boundary of said US 20; thence easterly along said south boundary 340.34 feet along an arc to the right having a radius of 29,357.92 feet and subtended by a long chord bearing South 88°14'44" East 340.34 feet; thence continuing along said south boundary South 87°54'48" East 42.62 feet to the northwest corner of Lot 1 in said Kuert Concrete US 20 DPUD; thence continuing along said south boundary of US 20 South 84°22'11" East 106.16 feet; thence continuing along said south boundary South 87°54'48" East 303.71 feet to the northeast corner of said Lot 1; thence continuing along said south boundary South 87°54'44" East 90.22 feet; thence continuing along said south boundary South 89°37'05" East 331.18 feet to the place of beginning, and containing 25.95 acres.

I Duane Burrow Senior Planner with the Elkhart County Division of Planning did prepare this document and do affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved Secondary approval of a Detailed Planned Unit Development known as Kuert Kopf DPUD for Gloria Kopf & Kuert Concrete, Inc., represented by JPR, located on the southeast corner of SR 15 and US 20 in Jefferson Township.

Brian Mabry from planning & development presented a request for Stanley L. & Judy E. Marks, represented by Dale Kesler/Kesler Land Surveying, LLC, for a zone map change from B-1 to B-3 located on the west side of SR 19, 235 feet north of CR 16 in Baugo Township. The Plan Commission has sent this to the Board with a recommendation for approval. Mr. Mabry said the proposed ordinance has several stipulations in it for the use of this property. Dale Kesler, representing the petitioner, said he will answer any questions from anyone. He said there will not be any maintenance of vehicles on this site, just the sale of vehicles. There were no other comments from anyone regarding this requested zoning map change. On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board closed the public hearing.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the zone map change and adopted an ordinance establishing the zone map change.

The Ordinance is as follows:

ORDINANCE NO. PC2013-05 - C

AN ORDINANCE TO AMEND COUNTY CODE 36-7-4-600 KNOWN AS THE COMPREHENSIVE PLAN OF ZONING FOR ELKHART COUNTY, INDIANA BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM B-1 TO B-3 WITH COMMITMENTS.

WHEREAS, Stanley L. and Judy E. Marks submitted an application to rezone real estate hereinafter described from B-1 to B-3 and after proper legal notice a public hearing was held as provided by Law, and the Plan Commission did find that all elements of the Law have been met and did on the 14th day of February 2013 recommend a Zone Map Change from B-1 to B-3 and filed their recommendation for adoption of this Ordinance and Commitments with the Board of County Commissioners of Elkhart County, Indiana.

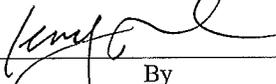
BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ELKHART COUNTY, INDIANA THAT:

Legal Description

Lots Numbered 55 and 56 in the record plat of T. J. Jones addition in Baugo Township recorded in Plat Book 1, page 110 in the office of the Recorder of Elkhart County, Indiana

BE rezoned from B-1 to B-3 effective immediately, and the zone maps dated October 30, 1959 and made a part of Article II, Section 2 of the Master Plan of Zoning for Elkhart County, Indiana as amended are hereby ordered amended and changed to reflect the said rezoning of said real estate.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA THIS 18th DAY OF March 2013



By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 
Pauline E. Graff Auditor for Elkhart County

Brian Mabry from planning and development requested recertification of the Amended Support Drawing and Development Plan (PUD) for Martin's Animal Bedding DPUD. The changes were made that had been required and it is now ready for final approval.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Recertification of the Amended Site Plan Support Drawing and Development Plan (PUD Plat) for Martin's Animal Bedding DPUD as submitted.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried; the Board approved Interlocal Agreements with Goshen (64,644), Wakarusa (\$5,000) and Bristol (\$4,000) for the Animal Control Services for 2013 with the Elkhart County Humane Shelter, as requested by Tom Byers, County Administrator. Elkhart and Middlebury have not yet submitted their approved agreements. The entities will pay the county and then the county will send payments to the humane shelter. Copies of the agreements are on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board appointed Lori Snyder as an alternate member on the Elkhart County Board of Zoning Appeals, as requested by Chris Godlewski, Director of Planning. Randy Wilson, who had been appointed as an alternate earlier this year, was found to be ineligible to serve on the zoning board because of serving on the redevelopment commission. Mr. Wilson had not participated in any of the board of zoning meetings this year.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Solid Waste-Landfill report for February 2013 and placed it on file.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen