

Minutes - Goshen Plan Commission  
Tuesday, February 19, 2008, 4:00 p.m.  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

I. The meeting was called to order with the following members present: John King, Connie Garber, Jim Wellington, Bob McCoige, Lovina Rutt, Darryl Riegsecker and Kelly Huffman. Also present were City Planner Joe Hauflaire and City Attorney James Kolbus.

Ms. Huffman acted as chair in Mr. Smith's absence.

II. The minutes of 1/15/2008 were approved - Rutt/King, 7-0.

III. The Zoning/Subdivision Ordinances and Official Staff Reports were unanimously filed into Record - Rutt/Wellington, 7-0.

IV. Postponements/Withdrawals - none.

V. **Major Change to the PUD & Preliminary Site Plan Approval**– public hearing items  
**08-01MA & 08-01PA** – Mennonite Mutual Aid & DJ Construction Company, Inc. request a major change to the PUD to add “Financial Offices with Drive-In” to permitted uses, to enlarge the building footprint by approximately 20,240 square feet, to allow one (1) loading area where two (2) is required, to permit a 15’ front yard parking lot setback where 35’ is required and to permit access onto an alleyway where access is required to be to a collector or arterial street. The applicants are also requesting preliminary site plan approval. The subject property is generally located at 1110 N. Main Street and zoned Commercial B-3.

Mr. King advised that he would be recusing himself from this agenda item as he is an employee of Mennonite Mutual Aid.

Mr. Hauflaire advised that there is an extensive list of requests on the table. He stated that he asked for a complete request after speaking with Tim Cataldo of DJ Construction Company, Inc. as a way of planning for the future. He stated that he would like, however, for the Plan Commission to hold off on the issue of the drive-thru facility and the access to Hilltop Street until a Traffic Impact Study can be completed. He stated that there has been a technical committee meeting regarding this case and both the Goshen Engineering Department and INDOT are requesting the study to better evaluate the situation. He stated that he would suggest approving the remainder of the petition with one change. He advised that they are requesting a relaxation of the required parking lot setback along N. Main Street to 15’ where 35’ is required. He stated that he would suggest that it state that the setback be permitted at 15’ even if additional right-of-way is taken. He stated that he would want to see 15’ and not an even further reduced number in the event that additional right-of-way is required in the future.

*Petitioner Presentation*

Tim Cataldo, DJ Construction Company, Inc. at 3414 Elkhart Road, stated that they are working with MMA on the expansion project. He acknowledged that there are several elements to their petition and advised that they would be happy to answer any questions. He also stated that their actual increase in footprint will be closer to 15,000 to 16,000 square feet than the 22,240 square feet that was listed on the petition.

Mr. Cataldo stated that they are also requesting a relaxation in the number of required parking spaces for the property. He stated that they would be required to have 320 spaces once the expansion project is complete. He stated that their number of employees will not, however, be increasing with the expansion. He stated that they are instead requesting that their required parking be 250 spaces. He stated that there will be room on the property for further parking expansion if needed in the future. He advised that reducing the number of spaces will allow for more retention areas and green space.

Ms. Rutt questioned how many new spaces will be created. Mr. Cataldo stated that they will only be adding approximately ten (10) spaces to their existing number.

Ms. Huffman reminded the Commission that they are a recommending board on this matter for the Council.

*Audience Comments*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Report & Discussion*

Mr. Hauflaire suggested adding a #9 stating that 260 spaces shall be permitted where 320 spaces are required per the drawing submitted by Brads-Ko Engineering & Surveying, Inc. dated 1/30/2008.

*Action*

A motion was made and seconded, Wellington/Riegsecker, to pass along a favorable recommendation to City Council for the major change with the conditions listed in the Staff Report and the addition of #9 (listed above). The motion passed, 6-0.

*John King returned to the meeting at 4:15 pm.*

- VI. **Rezoning, Primary Subdivision Approval & Preliminary Site Plan Approval** – public hearing items **08-01R, 08-01SUB & 08-02PA** – Formation Development, LLC and Brads-Ko Engineering & Surveying request the rezoning of 5.78 acres from Industrial M-1 to Commercial B-3 PUD, primary subdivision approval for a four (4) lot commercial subdivision and preliminary PUD site plan approval. The subject property is generally located on the east (west) side of Dierdorff Road, north of Eisenhower Drive North and south of Berkshire Drive.

Kelly Huffman recused herself as she is an adjacent property owner in the industrial park.

Mr. Hauflaire advised that that rezoning and preliminary site plan approval will both be recommendations to City Council. He further stated that the subdivision matter will stay with the Plan Commission. He pointed out the location of the subject property on the maps for the members. He advised that they are proposing to have a PUD overlay. He stated that they are also planning for a new road into the development to be named Karisa Drive. He stated that they are asking for setback relaxations for Lots 3 and 4 to permit a 12' parking setback where 30' is required. He stated that he has no objection to granting the relaxation. He also pointed out that Lot 2 has less frontage than what is required. He stated that he sees no negative impact to approving the lot, however, as it is on a cul-de-sac. He pointed out that Lot 2 also has a shared access with Lot 1 and advised that there should be language regarding the shared access on the plat. He stated that he is requiring sidewalks on any dedicated streets. He stated that he would like for the developer to submit building elevations. Regarding the subdivision, Mr. Hauflaire advised that an additional 40' of right-of-way will be required along Dierdorff Road. He stated that a non-access easement will also be required along Dierdorff Road and for Lot 2. He stated that requiring such an easement will ensure that all access is from Karisa Drive only. He advised that all stormwater, drainage and engineering approvals are to be in place prior to coming back for secondary plat approval. He also stated that post-construction is to be approved by Board of Works prior to secondary plat approval. Mr. Hauflaire briefly went over the remaining conditions listed in the Staff Report.

Ms. Garber questioned where they are planning to have parking. Mr. Hauflaire pointed out the site plan for Lot 1 showing the proposed parking areas.

*Petitioner Presentation*

Barry Pharis, Brads-Ko at 1009 S. 9th Street, spoke on behalf of the petitioner, Formation Development, LLC. Mr. Pharis advised that Shane Dyer of Formation Development was also present. He stated that the subject property is located within the industrial park and is currently zoned Industrial M-1. He stated that they are proposing a four (4) lot commercial subdivision with a cul-de-sac. He stated that a local physician is planning to build on Lot 1 and is

tentatively planning to also develop Lot 2 for a second physician's office. He stated that they are seeking a rezoning to Commercial B-3. He advised that the proposed PUD will stipulate that all offices shall be professional offices.

Mr. Pharis stated that they have already submitted a copy of the plans for the first building to the industrial park board for review. He advised that they have no problems from the architectural aspect. He stated that they are concerned about their covenants and restrictions and, because of this, oppose the rezoning. In response, he advised that the petitioner's stance is that there are other services and businesses within the park that are not industrial. He stated that adjacent to the subject property is an environmental services business as well as a cell tower, neither of which are industrial.

He confirmed that they are requesting one (1) variance as part of the PUD. He asked for approval of their request to relax the parking setbacks for Lots 3 and 4 along Karisa Drive. He stated that they plan to have sidewalks along both Karisa Drive and Dierdorff Road but asked that the sidewalks along Dierdorff not be required unless sidewalks are put in for either of the adjacent properties *or* when a building permit is obtained for the fourth and final lot in the development.

Mr. Pharis stated that they are asking for a favorable recommendation to the City Council regarding the rezoning and preliminary site plan approval and the granting of the primary subdivision approval.

Mr. McCoige addressed the water line located within an easement along the south edge of the property. Mr. Pharis stated that they have talked to the current property owner, Gene Riegsecker, and to Doug Perry with the City and there does not appear to be any problem with using that line for their connection. Mr. McCoige advised that the City would like to see it either looped from Dierdorff Road to the south or from the south to Dierdorff Road. Mr. Pharis stated that it would not be a problem.

Mr. Pharis further stated that the current property owner advised that there have been no offers for purchase of the subject property for an industrial use in the past sixteen (16) years. He stated that there was previously one other request for a rezoning but that it was not denied as the use did not fit the area.

#### *Audience Comments*

There was no one to speak to the petition.

#### *Staff Report & Discussion*

Mr. McCoige asked Attorney Kolbus if the letter submitted by the Board of Directors from the industrial park should affect the Commission's decision. Attorney Kolbus advised that it is a restrictive covenant but that they are not bound to abide by it. He stated that the covenant is something that they can consider. He stated that it is privately enforced and simply another piece of evidence to consider.

Mr. McCoige gave the example of the soccer fields that are located within the industrial park and advised that there are other uses out there that this use can be compared to. Attorney Kolbus agreed that there may be others. He stated that it can also be considered when deciding upon this case.

Ms. Rutt asked Mr. Hauflaire's opinion on allowing them to hold off on the sidewalks. Mr. Hauflaire stated that he has no strong objection as they would eventually be required for the property. He stated for the record that he would also like for elevation drawings to be submitted for review.

Mr. McCoige inquired as to whether or not sidewalks were required for the Keystone development further north on Dierdorff Road. Mr. Hauflaire advised that they were required but could not state for certain the width that was required. He stated that they do want to see wider sidewalks along Dierdorff Road as it is an arterial street.

*The public hearing was closed.*

Mr. Hauflaire advised that two motions will be needed. He advised that there needs to be a recommendation on the rezoning and the preliminary site plan approval to City Council and a motion on the primary subdivision approval.

*Action*

A motion was made and seconded, Garber/McCoige, to pass along a favorable recommendation to City Council for 08-01R and 08-02PA with the conditions listed in the Staff Report. The motion passed unanimously, 6-0.

A motion was made and seconded, Wellington/Riegsecker, to grant primary major subdivision approval with the conditions listed in the Staff Report. The motion passed unanimously, 6-0.

*Kelly Huffman returned to the meeting at 4:40 pm.*

Attorney Kolbus recused himself for the final case due to a conflict with the petitioner.

**VII. Rezoning, Primary Subdivision Approval & Preliminary Site Plan Approval** – public hearing items **08-02R, 08-02SUB & 08-03PA** – Greg Faubion and Brads-Ko Engineering & Surveying request primary subdivision approval of a twenty (20) lot major residential subdivision, containing sixteen (16) single family attached lots and five multi-family lots, the rezoning of approximately the south 400' of the site from Industrial M-1 to Residential R-3 with the balance of the property remaining Residential R-2, a Planned Unit Development (PUD) overlay for the entire site, and preliminary PUD site plan approval. The subject property, containing approximately 7.87 acres more or less, is generally located on the south side of Middlebury Street, east of Olive Street and currently zoned Residential R-2 and Industrial M-1.

Ms. Huffman pointed out that, as with the last case, the rezoning and preliminary site plan approval will be forwarded on to City Council with a recommendation and the subdivision will remain with the Plan Commission.

Mr. Hauflaire pointed out the site location on the aerial map provided in the Staff Report and also pointed out the line between the two (2) current zoning classifications. He stated that they are proposing that the Industrial M-1 district be rezoned to Residential R-3 and that the Residential R-2 will maintain its current zoning. He stated that they are proposing a twenty (20) lot major residential subdivision that will have a combination of single-family attached homes at the north end of the property with four-plex dwelling units on the lots in the rear portion. He stated that the multi-unit dwellings will be located on Lots 9, 10, 11, 12 and 13. He further pointed out that there will be one (1) duplex located on Lot 14.

Mr. King questioned the difference between a duplex and a single-family attached dwelling. Mr. Hauflaire clarified that single-family attached homes are each located on its own zoning lot while a duplex is two (2) dwelling units on a single zoning lot. He pointed out that it allows for easier home ownership.

Mr. Hauflaire reminded the Commission that this property owner had come before the Plan Commission a few months ago with a plan for approximately sixty-four (64) units on the same parcel of land. He stated that they have since decreased the density but he advised that he is still recommending having Residential R-2 zoning throughout the development. He stated that he would like to see single-family attached units throughout, including the planned duplex. He stated that such a subdivision would have a better possibility of home ownership and would have less density. Mr. Hauflaire also pointed out that Residential R-3 districts typically have recreational common areas. He stated that the proposed development does not have any. He again stated that he feels that Residential R-2 is a better fit for the area.

Mr. Hauflaire stated that, as part of the subdivision, there will need to be an additional 40' of right-of-way dedicated along Middlebury Street. He advised that sidewalks will be required along Stephanna Court (5') and Middlebury Street (8'). He also clarified that all necessary approvals will be required prior to filing for secondary plat approval.

Mr. Wellington questioned whether or not the number of lots would change if the Residential R-3 zoning were changed to Residential R-2. Mr. Hauflaire stated that they could possibly change as the common parking areas would not be needed if the density were not so great.

Mr. McCoige pointed out that the Commission should hear from the petitioner as to whether or not changing the plan would be acceptable from their perspective.

*Petitioner Presentation*

Barry Pharis, Brads-Ko Engineering & Surveying at 1009 S. 9th Street, stated that his firm is representing Greg Faubion, the current land owner and developer for the subdivision. Mr. Pharis advised that Mr. Faubion was also present to answer any questions. He stated that they are reintroducing The Oaks subdivision and pointed out the site location on a map that he provided.

Mr. Pharis stated that he has worked with Mr. Faubion on this development for the past five (5) years and stated that Mr. Faubion had been working on it for two (2) years prior to that. He stated that they have considered all options for the property. He stated that they proposed sixty-two (62) dwelling units last fall with a mix of duplexes and four-plexes. He reminded them that they were not happy with the density or the parking at that time. He stated that Mr. Faubion believes that there is a need in Goshen for high-end rental units. He stated that the twenty (20) units planned for the Residential R-3 section *will* be high-end rental units with garages, one (1) to one and a half (1 ½) baths and basements. He stated that they have also attempted to use the Residential R-3 section to buffer the Residential R-2 section from the surrounding Industrial M-1 district. He stated that each of the single-family attached homes will have two (2) or three (3) bedrooms, one (1) to one and a half (1 ½) baths, basements, two (2) stall garages plus all units will be EnergyStar rated.

Mr. Pharis stated that they have decreased the total density to thirty-six (36) units for the development. He stated that they want the Residential R-3 zoning and do not want to agree to Residential R-2.

Regarding the parking, Mr. Pharis broke down the figures for the Commission. He stated that, within the Residential R-2 district, there will be a total of seventy-eight (78) parking spaces available for the sixteen (16) units that will be off the street and out of the setback. He stated that it equals 4.9 parking spaces per unit. He then added in the parking that would be available within the setback but not over the sidewalk and stated that it would then add an additional thirty (30) spaces for a grand total of one hundred and eight (108) parking spaces. For the Residential R-3 section, he stated that there will be sixty-three (63) spaces available out of the setback and off the street for the twenty (20) dwelling units. He stated that it equals 3.2 parking spaces per unit. He again added in the parking that would be available within the setback but not over the sidewalk and stated that it would then add an additional twenty-two (22) spaces for a total of eight-five (85) spaces or 4.25 spaces per unit.

Mr. Pharis referenced the Institute of Traffic Engineer's Trip Generation Manual stating that, at the peak hours, approximately nineteen (19) vehicles would be leaving and entering the subdivision. He stated that approximately 80% would be leaving during that hour and 20% would be coming in. He further pointed out that, during the peak hour, only one (1) vehicle would be coming in or out every three (3) plus minutes.

Mr. Pharis stated that they are planning to have 5' sidewalks along Stephanna Court and 8' sidewalks along Middlebury Street. He also stated that there will be protective covenants and restrictions in place that will be prepared by an attorney. He stated that they are aware of the fact that the area is located within a Wellhead Protection area. He advised that they are designing bioretention areas to cleanse the drainage prior to storage in the general retention areas. He stated that it will not be a wet lake but will have soils that will allow for water evaporation.

Mr. Wellington questioned whether or not people will be allowed to walk in the bioretention area. Mr. Pharis stated that they will be able to when it is dry.

Ms. Huffman questioned their goal for drying time for the bioretention area. Mr. Pharis stated that their goal is twenty-four (24) hours.

Mr. Wellington asked what the assurance is that this development will be a high-end subdivision. Mr. Pharis stated that they feel that the specs for the units are good assurances. He stated that they are trying to support the high-end with the amenities that they will provide in the dwelling units. Mr. Pharis further stated that it is Mr. Faubion's goal to build this development and pass it along to his kids in the future. He stated that Mr. Faubion will be building them all

himself, will be the landlord for the four-plexes and will eventually pass them to his children.

Mr. Wellington asked what number of parking spaces would be required for a unit per the ordinance. Mr. Hauflaire stated that a three (3) bedroom dwelling requires two (2) spaces while a two (2) bedroom dwelling required one and a half (1 ½) spaces.

Mr. Wellington stated that, because they are exceeding the standard parking requirements, he would prefer to see the extra parking area instead be green space. Mr. Pharis stated that they provided the extra parking in response to the Plan Commission's concern last fall. He stated that they would much prefer to see green space as opposed to extra parking.

#### *Audience Comments*

Greg Lehman, 806 Middlebury Street, stated that he lives directly east of the subject property. He acknowledged that they have made considerable changes from the previous plan. He stated that his concern would be the lighting that would be used in Common Area 1. He stated that, as the adjacent property owner, he would like to see down lighting to prevent light spill onto his property. He stated that he would prefer to see green space, as well.

Mr. Wellington asked Mr. Lehman if the proposed plan would be acceptable for him. Mr. Lehman stated that he is not in favor of the four-plex units as they would be long-term rentals. He stated that they would most likely go downhill over time. He pointed out that owner-occupied dwellings tend to retain their value better. He stated that he would prefer to see Residential R-2 throughout but again acknowledged their progress from the previous plan.

Mr. McCoige asked Mr. Lehman if he would prefer to see the land remain Industrial M-1 with an industrial use so close to his property. Mr. Lehman stated that industrial would most likely cause other problems.

Flor Garcia, 710 Middlebury Street, stated that she lives at the adjacent property to the west of the proposed development. She thanked Mr. Faubion for cutting back the density from the previous plan. She stated that she would request that a privacy fence be required near her home. She stated that she is concerned for the safety of her children and the density of the area. She also pointed out that people may not take pride in the properties as they would be rentals and stated that she does not want to have to see run down properties.

Mr. Hauflaire advised that the current landscape ordinance does not require a landscaping buffer between Residential R-2 to Residential R-2 as they are considered equal zoning. He stated that a fence would not be likely but that he was not certain on what type of landscaping could be required.

Mr. Wellington asked Ms. Garcia if she would prefer landscaping or a fence. She stated that she would prefer a fence.

Mr. King further asked her to clarify that dense landscaping would not be acceptable. Ms. Huffman pointed out that she would have the option of putting up her own fence and it would not be the job of the property developer to do so. Ms. Garcia stated that she could put up her own fence and she stated that she most likely would for the safety of her three (3) children.

Marcia Mast, 708 Middlebury Street, stated that she is also a neighboring property owner. She acknowledged that the proposed plan is an improvement over the plan from last fall. She stated that she was originally in favor of a fence but would not be opposed to good, dense landscaping as a buffer. She stated that she would prefer to see Residential R-2 in place of Residential R-3.

#### *Rebuttal*

Mr. Pharis stated that they are not interested in the option of Residential R-2 in the existing industrial zoning district. He stated that they are asking that the Residential R-3 be considered by the Commission. He stated that they need the density of the R-3 portion to support the high-end units that they are proposing. He further stated that they are planning to have landscaping along all the perimeters of the development. He stated that they *want* the landscaping as a buffer between their development and the adjacent properties. He pointed out that the property owners would be required to pay for half of the fence if it is required by the Commission per State law. He stated that their opinion is that the landscaping would be a better option. As for the common areas, he stated that they would much prefer to have green

space over additional parking areas. If allowed, they will remove the parking areas and instead have common green space for the subdivision.

Mr. Wellington asked if the building on Lot 11 could be shifted once the parking area is removed so that the green space could abut the bioretention area. Mr. Pharis stated that it could be done.

Ms. Huffman advised that she is concerned about removing Common Area 2 due to the density of the R-3 portion of the development.

Mr. McCoige questioned who will maintain the common areas. Mr. Pharis stated that the covenants and restrictions for the development will be very clear on lawns, maintenance, the exteriors of the buildings, common areas, etc... He stated that all common areas will be owned equally and undivided by each property owner.

Mr. King asked if the four-plexes will be one (1) or two (2) stories. Mr. Pharis stated that they will be two (2) story units.

Ms. Huffman stated that she would like to see elevations for the units that are being proposed. Mr. Hauflaire advised that it can be required as was done with the previous case.

Mr. McCoige questioned whether the Commission knows anything about the building exteriors at this point in time. Mr. Faubion advised that he is planning to build them all in the Craftsman style.

*The public hearing was closed.*

#### *Staff Report & Discussion*

Ms. Huffman stated that she would like to see the additional landscaping required as part of the PUD. Mr. Wellington questioned whether a fence should also be required and Ms. Huffman stated that the Commission cannot require both a fence *and* landscaping. Mr. Riegsecker agreed stating that it would be asking for too much of the developer. Mr. Wellington then suggested not having a fence be required but instead be an agreement between the property owners. Ms. Huffman again stated that the developer is already going above and beyond as *no* landscaping is required by the ordinance.

In response, Mr. Pharis stated that their intention is to buffer the R-3 section from the M-1 district for their tenants. He again stated, as well, that they want to buffer their R-2 section from the adjacent properties and are planning to have dense landscaping around the entire development.

#### *Action*

A motion was made and seconded, Garber/Wellington, to pass along a favorable recommendation to City Council for 08-02R and 08-03PA with the Residential R-3 district permitted in the rear portion of the development, the conditions listed in the Staff Report and the following conditions from today's meeting:

- The building style shall be approved by the Plan Commission as part of the final PUD site plan approval. All dwelling units shall be constructed in the Craftsman style as indicated by the developer.
- All dwelling units are to maintain an EnergyStar rating as indicated by the developer.
- Partial landscaping (as described in the Zoning Ordinance) shall be planted around the entire perimeter of the development.
- Both common parking areas (Common Area 1 and the common parking area on Lot 11) as depicted on the approved site plan are to be eliminated and replaced with common open space for the development.
- The building on Lot 11 shall be shifted to the west (into the vacated common parking area) and common open space added that shall be at least equal in area to the vacated parking area and merged with the bioretention area of Common Area 2 thereby increasing the area of common open space for the development.

The motion passed unanimously, 7-0.

A motion was made and seconded, Rutt/Riegsecker, to grant 08-02SUB with the conditions listed in the Staff Report with the elimination of Condition #1. The motion passed unanimously, 7-0.

*Jim Wellington and Bob McCoige left the meeting at 5:45 pm.*

IX. Audience Items - *none*

X. Staff/Board Items

- *Fee Schedule*

Mr. Hauflaire requested permission from the Plan Commission to advertise for changes to the fee schedule. He advised that staff is proposing that it remain in the Zoning Ordinance and Subdivision Ordinance as it has always been. He stated that staff is asking to adjust the fees to reflect actual costs. He stated that notices will be sent to all developers as was previously suggested. A motion was made and seconded, King/Rutt, to adjust fee schedule. The motion passed unanimously, 5-0.

- *Peninsula Planning Task Force* (tabled from the 11/20/2007 meeting)

Mr. Hauflaire asked that the item remain on the table. He stated that he will be asking to have it removed at the next meeting if nothing has been resolved by that point in time.

- *Criteria for Rezoning from the State statute / Comprehensive Plan*

- Mr. Hauflaire explained that the handout was provided for the members as additional information to consider when reviewing a rezoning request.

XI. Adjournment - 5:55 pm

Respectfully Submitted:

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Becky Hershberger, Recording Secretary

Approved By:

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Jim Smith, President

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Lovina G. Rutt, Secretary