

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 13TH DAY OF OCTOBER 2016 AT 9:00 A.M. IN THE
MEETING ROOM OF THE DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairman, Steve Warner. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Liz Gunden, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board. Mark Kanney, Planner, was absent.

Roll Call.

Present: Tony Campanello, Roger Miller, Steve Warner, Lori Snyder, Jeff Burbrink, Blake Doriot, Tom Stump.

Absent: Steven Edwards, Frank Lucchese.

2. A motion was made and seconded (*Doriot/Stump*) that the minutes of the Elkhart County Plan Commission, held on the 11th day of August 2016, be approved as submitted and the September 8, 2016, minutes will be approved at the November 10, 2016, hearing. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Burbrink/Stump*) 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 amendments to the text of the Elkhart County Subdivision Control Ordinance related to Administrative Subdivisions, affecting 4.1.2 General Requirements and Standards and 6.2 Definitions, for Elkhart County Advisory Plan Commission, on property located on the all lands within Elkhart County, including all the Townships: Cleveland, Osolo, Washington, York, Baugo, Concord, Jefferson, Middlebury, Olive, Harrison, Elkhart, Clinton, Locke, Union, Jackson and Benton, but excluding the jurisdictions of the City of Goshen, the City of Elkhart, and the Town of Nappanee, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review.

Mr. Doriot questioned the meaning of the 4.1.2-B General Requirements and Standards wording, "or otherwise has legal status". Attorney Kolbus explained it is to cover structures that were built before permitting began. For clarification purposes, Mr. Doriot questioned if there was an 80 acre parcel and a five acre piece was sold off from that for an Administrative Subdivision, if a building permit could be issued on the 75 acres left for the construction of a house. Mr. Auvil stated yes, noting the waiting period to complete another Administrative Subdivision. When Mr. Doriot questioned if the 24 month waiting period to complete is new, Mr. Auvil stated it was being proposed. He went on to say the 75 acres would have to meet other developmental standards. When Mr. Doriot inquired about the waiting period being 24 months, Mr. Auvil stated yes they did not want someone being able to leap frog down the road and either inadvertently or intentionally go around the Subdivision Control Ordinance with Minor/Major Plats. He noted this gives people flexibility but at the same time limits how much someone can keep cutting off of a parcel. They do not want people to cut off road frontage. Mr. Doriot stated it was a quick way around property

rights, which Mr. Auvil noted controls sprawl. Regarding an old building that has been grandfathered in, Mr. Campanello questioned would it be required to be brought up to date to today's standards if a permit is issued. Attorney Kolbus answered no, if work is not being done on that structure. That is building code and only when you work on that actual structure then you would have to bring certain parts up to code.

There were no remonstrators present.

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

Mr. Burbrink questioned the reason for the Administrative Subdivision process. As he understands it, Mr. Auvil noted the previous process of a parent to child split of property, allowing a parent to give their children a piece of the family farm, which turned into people being able to cut off their property. He reported a lot of places refer to that as a one-time split rule; here it is referred to as an Administrative Subdivision. He went on to say, instead of going through the Administrative Subdivision process, it gave individuals a chance to cut off a piece of property that met certain developmental standards, in terms of road frontage and size, which would allow them to cut off that piece of property without going through the public hearing process that occurs with a Minor/Major Plat situations. He also noted they are always trying to refine, improve, clarify, and protect the things from the past as well as moving forward. Mr. Auvil pointed out the attempt to allow people to have some flexibility and to simplify the process because the Administrative Subdivision is approved at the Staff level, not at the Plat Committee or any other level. This flexibility allows people to be grandfathered in, but at the same time places some constraints. If the plan is to sell off property in more than once piece, the proper process should be followed to split it. He went on to say they are trying to promote and protect agricultural land in the county, which is one of the comprehensive goals. The last thing they want is to see people attempting to chunk off pieces of property without going through one of the other steps. Mr. Doriot argued that the intention of the parent to child split was to have a normal size 20, 000 sq. ft. building lot in an attempt to keep the child on the farm. The parcel size of three acres was picked because, at the time, a normal lot in a subdivision cost about the same as three acres in the rural area. He also noted this was done so there was an even balance between the costs of the building site. When the Subdivision Ordinance was created, he said the discussion was the fact that there was no oversight on a three acre and larger lot, so they came up with the Administrative Subdivision as a way that staff would have a better handle on what was happening, more soil borings, and a site plan of some sort. He disagreed with the planners trying to steer people into an urban area when some people do not like an urban area. He stated the only thing a Minor Subdivision does is it let you go down to a smaller lot, and it has more oversight than the Administrative Subdivision. But it takes Right-of-Way and gives that to the government, which is the major push. With the rural large lot, it is too much. He stated that was his opinion and his thought when the Subdivision Ordinance and the Administrative Subdivision were created. He added that he was voting against it because he does not like the 24 months. When Mr. Stump questioned Mr. Doriot if a revision would make him happy, Mr. Doriot stated he does not know why there is a time frame. Mr. Kolbus confirmed the Board has the ability to recommend amendments as it is sent on to the Commissioners. Mr. Doriot reported he believed the time frame needed to be removed. Mr. Campanello questioned how many planners were involved with the decision on the 24 month waiting period. Mr. Auvil stated it was

the three planners and Attorney Kolbus. For the members of the BZA who are also on this Board, he pointed out the increasing need for the 7 to 1 ratio Development Variances which is one of the spillover affects of people chunking off frontage and leaving area behind, causing a propagation of these flag lots. In the future, in terms of county highway, he suggested shared driveways will be required because there is not enough site distance to put driveways on all of these little pieces of property that provide frontage to all of the large acreage residual pieces. With an Administrative Subdivision, he noted the concern is chunking off road frontage and leaving all these residual pieces in the back. He went on to suggest that the possible driveway issue could lead to a whole other host of problems in terms of driveway maintenance and access agreements. He indicated that planners are trained to think ahead to the future, and suggested this trend will begin to occur in the next five to 15 years as the county starts developing out and these flag lots become a problem in rural areas. While pushing people towards urban areas is ideal, Mr. Auvil stated the purpose is to maintain and preserve as much agricultural land as possible as it is a valuable commodity that cannot be replaced after it is gone. As planners, he stated their job is to look at, maintain, and try to protect those resources, despite peoples' intentions. While they want to allow people the freedom to do as they wish, he does not believe giving someone the unlimited ability to chop off all the frontage of their property as one Administrative Subdivision after another is appropriate. He suggested if the Board wanted a 12 month time limit, he was okay with that. He noted the Board can make that decision, and the County Commissioners will have their input as well. As clarification, the Board can recommend it as proposed or recommend with amendments.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that this request for amendments to the text of the Elkhart County Subdivision Control Ordinance related to Administrative Subdivisions, affecting 4.1.2 General Requirements and Standards and 6.2 Definitions be approved with the following change:

1. Deletion of item 4.1.2 E

Mr. Stump questioned what Mr. Auvil is afraid of happening if all these lots are developed along the road with the property behind it. Mr. Auvil reiterated concern about access and driveways. There was further discussion about site distance on county roads required by the Elkhart County Highway Department that could prohibit driveways in the future. Mr. Doriot noted the road he lives on has several three to four acre lots which have 65 acres of agricultural ground in the back and suggested the quickest way to preserve agricultural ground is to make it hard to access. He also added if a dense development is created in the back, people are going to protest against it because they want the land left agricultural. Mr. Auvil suggested the BZA will see increasing requests coming in to develop these flag lots, which Mr. Doriot suggested be denied. Mr. Campanello noted the Comprehensive Plan is to help preserve agricultural land. Mr. Auvil agreed and went on to say, the staff makes recommendations to the BZA, and BZA makes that decision. He noted staff attempts to head-off potential problems they can see, which is why this is being brought to the Board's attention.

Mr. Warner restated the motion that was on the table and called for a vote.

Vote: Motion failed (**summary:** Yes=3, No=4, Abstain=0).

Yes: Blake Doriot, Tom Stump, Tony Campanello.

No: Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner.

Attorney Kolbus noted three votes in favor and four in opposition. He suggested a discussion on a modified time table or to forward it to the County Commissioners without a recommendation. Mr. Stump questioned if the process for subdividing 80 acres into half acre lots and possible difficulties that might occur. This led to a lengthy discussion about possible scenarios in the process depending on certain circumstances of said property and proposed subdivision. Mr. Warner questioned if there were any suggestions for possible changes. Ms. Snyder reported she was in favor of 12 months which would provide the stop-gap she feels is necessary as a realtor. She stated they run into parcels that someone wants to buy or sell, and there is no access to it. She went on to say, this trend is increasing and believes that it will become an issue. She noted that if someone would want to plan they would have time to get it all done and it would not draw it out. For clarification, Mr. Auvil noted for an Administrative Subdivision, a building permit has to be pulled at the same time, which is part of that flexibility. He stated he believed 12 months is reasonable. Mr. Stump questioned why Mr. Auvil does not want people to subdivide three acres at a time. Mr. Auvil stated people will be chunking off road frontage and creating flag-pole lots or lots that do not have access. Mr. Stump reported he does not see cutting off three acres at a time would increase that happening. He believed it would restrict that from happening if you cut all the three acre lots out, which would stop development of a flag lot because the entire frontage is gone. Mr. Auvil stated it would depend on the layout of the surrounding parcels. Mr. Campanello questioned if building should be encouraged after the three acre lots are done or if it should remain agricultural. Mr. Doriot stated the areas he sees this happening are up by Love Way in areas that are not going to be farmed. He also added the reason it is left is because it was not good to clear the farm because of erosion problems if the land was cleared. He noted you do not see this happening in Benton Township, with the flag lots. Mr. Burbrink questioned the primary audience who uses the Administrative Subdivision, which Mr. Doriot reported it is the person who wants to buy the larger lot, many of them are for 4-H animals, some do not care to have neighbors, or they want a small hobby farm. Mr. Auvil reported it is a mixture, generally younger families starting out and the Amish, along with the parent to child split which is primarily done through the Administrative Subdivision because generally they come in ready to build.

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

Motion: Action: Approved, **Moved by** Roger Miller, **Seconded by** Steve Warner that this request for amendments to the text of the Elkhart County Subdivision Control Ordinance related to Administrative Subdivisions, affecting 4.1.2 General Requirements and Standards and 6.2 Definitions be approved with the following change:

1. Change from 24 months to 12 months in item E under Section 4.1.2.

Vote: Motion passed (**summary:** Yes = 5, No = 2, Abstain = 0).

Yes: Jeff Burbrink, Lori Snyder, Roger Miller, Steve Warner, Tom Stump.

No: Blake Doriot, Tony Campanello.

Attorney Kolbus reported the motion passed 5 to 2, and pointed out that the County Commissioners will have the final say.

It should be noted that Ms. Snyder recuses herself and steps down.

5. The application for the Vacation of a North/South County Right of Way known as Christina Court, for Dave Dickman, on property located on the North portion at the West end of Lake View Ave., 1,790 ft. West of SR 19, in Osolo Township, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case #VRW-0419-2016*.

Dave Dickman, 54068 Adams Street, Elkhart, was present on behalf of this request. He reported he has been there since 1978 and has maintained the drive which serves no purpose to anybody other than himself. Mr. Campanello asked Mr. Dickman to show on the aerial where his property is located. If approved, Mr. Campanello questioned if Mr. Dickman would own the property, and he stated yes. Mr. Doriot reported it will go back to the original platted property.

Connie Fowler, 51636 Sparkling Spring Trail, Elkhart, was present in remonstrance. She stated her concern is the property line location. She reported she does not want it to infringe on her adjoining property. Ms. Fowler requested a stake survey at no cost to her.

Karen Pawling, 51598 Sparkling Spring Trail, Elkhart, was present in remonstrance also. She reported a fenced-in pool in her back yard and storage of a cargo trailer on the rear of her property. If this request is approved, she would lose access to the rear of her property. Ms. Pawling reported a large oak tree fell in her yard, and they used the lane as access to get the tree out. She noted other large trees in her yard that could fall and is concerned she will have to tear down sections of her fence and run over her field system to access them if the Right-of-Way is vacated. She submitted a letter from her neighbor, Pat Rezutko [attached to file as *Remonstrator Exhibit#1*]. If the Vacation of Right-of-Way is granted, Ms. Pawling noted her neighbor requested a survey to show where the new property line is located. Mr. Miller noted it did not appear that there was a lot of property to get back to her back yard, which she stated there was not. She reported part of the back yard is fenced in because of the pool, but the rest of it was not because of the trees.

Dave Dickman, 54068 Adams Street, Elkhart, responded by stating there are fences that run along these properties. He reported Chris Marbach surveyed the property, and it was submitted to the Plan Commission and could be readily provided to anyone who would like it. Assuming the fences were properly placed on these peoples' property lines, he indicated that is a separate subdivision, and this is a platted Right-of-Way in this subdivision, so he questioned if they should really have access to the drive. Mr. Campanello noted Mr. Dickman's properties are flag-pole lots and questioned his plan for the property, which Mr. Dickman stated will remain woods. He reported the Right-of-Way is the drive he uses all the time and pointed out on the photo a separate 25 ft. easement to the property in the back but stated it is all fenced off and not used. Mr. Dickman noted the Right-of-Way will become his driveway and go with the property.

Mr. Auvil gave clarification of a flag-pole lot. Mr. Miller questioned if people are allowed to use this access road, and Attorney Kolbus stated yes. Mr. Doriot reported it is a public unimproved Right-of-Way. Mr. Auvil questioned if Mr. Dickman is intending to use this for a driveway, which Mr. Dickman stated he has been using and maintaining it since 1978. If vacated,

Mr. Auvil questioned if Mr. Dickman would have any objections to giving the one neighbor an access easement. Mr. Dickman stated not an access easement but would not have a problem with them using it to store their trailer back there. He went on to say, he was going to speak with them about being able to continue using the lane and nothing is going to change. He indicated he wants the lane to be part of the existing parcel. Mr. Auvil noted his concern about what will happen to the neighbors' ability to access their trailer up and down Mr. Dickman's driveway if Mr. Dickman were to sell the property. Mr. Dickman suggested they should keep it on their property or look for a storage facility. Mr. Doriot questioned if the trailer is stored on the alley or on their property, and Mr. Dickman stated he did not know if it was on their property or not, but would guess it is probably in the Right-of-Way.

Connie Fowler, returned and added that she put in a wood fence that is lined up with the existing neighbor's fences which has a double gate for access to the Right-of-Way in case the septic would need pumped or if they would need to put in field a system. She went on to say they would use the lane to access the back yard without having to go through the front or side yards. She questioned if she could have a copy of the survey. Upon further investigation, it was determined that what was believed to have been a survey by Mr. Dickman was, in fact, a site plan.

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

Mr. Campanello expressed feeling that the neighbors have been lucky to have the use of the Right-of-Way and access to the back of their properties for this amount of time. Mr. Miller made mention of #4 of the Staff Recommendation, which he read and stated is not true. Mr. Doriot reported it is a public Right-of-Way. Mr. Auvil advised the spirit of that comment was as a street and not as an access on personal property. If it was going all the way through for everybody else to use, Mr. Campanello said he could see the spirit of a public Right-Of-Way. Mr. Doriot reported he is 50/50 on this request and stated this is not being used as what we would consider an alley in town. However, there are residences on one side that have shown or testified that they do use the public Right-of-Way from time to time. He noted it does not matter if it was platted with their subdivision or not. Their subdivision was platted up against the Right-of-Way; but yet there is the point that Mr. Dickman has been maintaining that for his enjoyment and the adjoiners have been using his investment. When Mr. Miller questioned that as a consideration of the Board, Mr. Doriot said probably not. Attorney Kolbus advised the Board to look at the four criteria set forth on the Staff report. Mr. Miller reported he is concerned because three out of the four people adjacent indicated they use the Right-of-Way. He sympathized with Mr. Dickman because he has maintained it while other people have enjoyed it, but it is being used. Mr. Campanello pointed out not everyone in the neighborhood is using the Right-of-Way. If they were, he would understand Mr. Miller's point about # 4, but what is being talked about is people being backed up to it, and it is not paved or functional as a public Right-of-Way. Mr. Burbrink noted that #2 caught his attention because the plan was built on their properties with the access to the Right-of-Way in mind.

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

Motion: Action: Deny, Moved by Roger Miller, Seconded by Steve Warner, that this request for the Vacation of a North/South County Right of Way known as Christina Court be forwarded to the Board of County Commissioners with a negative recommendation by the Advisory Plan

Commission.

Vote: Motion passed (**summary:** Yes = 5, No = 1, Abstain = 1).

Yes: Blake Doriot, Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump.

No: Tony Campanello.

Abstain: Lori Snyder.

6. *Staff item/Consideration of amendment of the Elroy Drive Industrial Park TIF district for the Town of Middlebury*

Attorney Craig Buche, 130 North Main, Goshen, was present representing the Town of Middlebury and the Middlebury Redevelopment Commission. He submitted maps [attached to minutes as *Petitioner Exhibit #1*] with the current layouts of the TIF districts in the vicinity, as well as a proposed map with the additional areas. Mr. Buche pointed out the aerial map marked as Exhibit B proposed Elroy Drive TIF district expansion, which is the current layout of the area. He stated the proposed change has to deal with the last time this TIF district was expanded. He noted the southeast corner of US 20 and SR 13 is the County Southeast TIF district established by the Elkhart County Redevelopment Commission then the area immediately South is the Town Elroy Drive TIF district which was the original TIF district established by the Town of Middlebury at the corner of Industrial Drive and Elroy Drive. He reported the areas marked A,B,C, & D were additional areas previously expanded and added to the Elroy Drive TIF district. He went on to say the current TIF district is all around the Southeast TIF district of the Town of Middlebury. Secondly, he stated the layout Tracts 1-4 are the proposed areas now to be added to the Elroy Drive TIF district, which is continual connection of the parcels A,B,C, & D as well as the Elroy TIF district area to continue to add real estate as the Jayco complex grows in that vicinity. He reported the request in this instance was actually initiated by Jayco to the Town. He indicated Jayco has had tracts 1-4 annexed to the Town of Middlebury that has been completed and those tracks are a planned for expansions for Jayco, with a current building expansion underway on tract 1. He reported there are plans for potentially as many as three more facilities on Tract 1. Mr. Buche reported water and sewer are being extended for purposes of that facility. He stated the request from the Town of Middlebury is to add Tracts 1-4 to their current TIF district. He noted the Redevelopment Commission of the Town of Middlebury has approved an amendment to add those. He stated the request to this Board as the Plan Commission for the Town of Middlebury and the question is whether or not the continued expansion of that area conforms to the Comprehensive Plan of Elkhart County. He noted this area has been designated for industrial purposes. It has been Jayco in the Elroy Drive TIF district which is continued commercial and industrial area as well. He went on to add that most this area has been owned and controlled by Jayco or one of its entities.

Mr. Doriot questioned the use of this TIF and Mr. Buche indicated for water and sewer expansions. When Mr. Doriot questioned if Jayco put another tower out there, Mr. Buche reported they do not currently have a tower in this vicinity but is in the plan for the TIF district if needed. Mr. Doriot stated he thought it was in the plans years ago because it would equal out the pressure in the town more. Mr. Buche noted if there becomes a need it will probably be tied more to storage than pressure for additional capacity for fire purposes. Mr. Doriot confirmed he reported there are four towers for the Town. Mr. Buche stated he submitted a proposed written order, which would be the action the town would be requesting. Attorney Kolbus noted the motion would be to approve

the written order as proposed. With the size of the existing sewage system treatment plant in Middlebury and by adding all these tracts to it, Mr. Campanello questioned if they are still able to go North and have people tie into it. Additionally he questioned if the TIF money was only going to Jayco and not considering the residents of the town. Mr. Buche stated they do continue to expand on the utilities plant. He reported that a new plant was constructed in approximately 2007, and there is sufficient capacity for continued growth for this area and other areas of the town. The sewer plant was expanded four years ago and has increased its capacity. He indicated the big drivers there are the Meijer plant on the North side, and they do have continued capacity for growth. He reported the limitations going North have more to do with elevations than the capacity of the plant. Mr. Campanello stated he does not believe Jayco will move anywhere and questioned if Jayco is putting any money into the expansion, which Mr. Buche stated they are. He went on to say, all of the sewer line to expand is being paid for by Jayco in this case. Mr. Stump questioned Mr. Buche if Jayco will be reimbursed for this sewer. He stated that was the original proposal but the process you have to go through for reimbursement is too slow, so Jayco decided to go proceed with their project and forgo reimbursement. Mr. Stump noted that is very unusual and it is a huge expense, and Mr. Buche stated it is not huge but significant. When Mr. Stump questioned the amount of the project, Mr. Buche stated it is approximately a quarter of a million dollars.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Roger Miller, that the Plan Commission approve the written order as proposed. The motion passed with a unanimous vote.

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

Mr. Auvil reported, that on September 6, 2016, the Board of County Commissioners acted in accordance with all August 16, 2016, Plan Commission recommendations, approving without modification.

8. *Staff item/2017 Planning calendar*

Jason Auvil presented the 2017 Planning calendar. He reported it meets all statutory requirements.

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

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Roger Miller, that the Elkhart County Planning Commission approve the 2017 Planning calendar as proposed.

9. *Staff item/Vacation of Right of Way fee*

Mr. Auvil reported there was discussion between Chris Godlewski and the County Commissioners about the Vacation of Right-of-Way fee which is currently \$100. In terms of

looking at the amount of staff time put into these requests, he reported the thought and suggestion by the Commissioners is to increase the fee to \$300 to match the other fees for petition submissions. When Mr. Miller inquired who pays the fee, Mr. Auvil stated the fee is paid by the petitioner for the request. Mr. Campanello questioned if the fee is paid when the request is approved, and Mr. Auvil reported the fee is paid when the petition is filed to cover staff time to complete the review. Mr. Warner stated that the staff study completed approximately two or three years ago reflects that this is only basically a third of the actual cost, which Mr. Auvil confirmed. He went on to say staff time and department resources are still being highly subsidized. He indicated some other nearby counties such as Marshall County charge \$500 and LaGrange County charges \$1,000 for vacation requests. Other counties charge double and triple the amount that Elkhart County charges. Mr. Stump pointed out that the general tax payer suffers the burden if the petitioner requesting the vacation does not pay for it. When Mr. Campanello stated that staff time is already budgeted to work for the citizens of Elkhart County, Mr. Auvil reported that the Planning Department does an excellent job of trying to be as close to cost-neutral as they can. The fees generated by the department pay most of the department's budget which reduces the liability on the taxpayers of Elkhart County as money that is not received from the fees is taken from the General Fund. He believes this increase is in line with the other petition filing fees as well as being way below industry standard in this area. When Mr. Campanello questioned the number of vacation requests per year, Mr. Auvil indicated 6 to 10. He noted there have been quite a few this year. Mr. Doriot noted a vacation removes liability from the county because it is no longer a public way.

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Tom Stump, that the Plan Commission approve the amendment of the Vacation of Right-of-Way fee in the fee schedule attached to the Rules of Procedure.

Vote: Motion failed (**summary:** Yes = 4, No = 2, Abstain = 0).

Yes: Blake Doriot, Tony Campanello.

No: Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump.

Absent: Lori Snyder.

As the vote did not pass, Attorney Kolbus suggested tabling until next month unless Mr. Doriot or Mr. Campanello is willing to make a new motion to change. Mr. Campanello stated he would like to look at it to see if the fee can be based on the size of the Vacation of Right-of-Way per acre or square foot. Mr. Miller reported it would not work. Mr. Auvil stated no other petitions are calculated that way and it would be an Administrative nightmare, which would cause more staff time and cost. Attorney Kolbus advised Mr. Campanello that if he wanted more information, he could meet with staff after the meeting.

Motion: Action: Deny, **Moved by** Blake Doriot, **Seconded by** Tony Campanello, that the Plan Commission deny the amendment of the Vacation of Right-of-Way fee in the fee schedule attached to the Rules of Procedure.

Vote: Motion failed (**summary:** Yes = 2, No = 4, Abstain = 0).

Yes: Blake Doriot, Tony Campanello.

No: Jeff Burbrink, Roger Miller, Steve Warner, Tom Stump.

Absent: Lori Snyder.

Attorney Kolbus reported the vote failed to pass. Mr. Stump questioned if this item is forwarded to the Commissioners, and Attorney Kolbus stated it is an amendment to the Rules of Procedure.

Motion: Action: Table, **Moved by** Jeff Burbrink, **Seconded by** Roger Miller, that the Plan Commission table the amendment of the Vacation of Right-of-Way fee in the fee schedule attached to the Rules of Procedure to the November 10, 2016 Plan Commission Meeting. The motion carried with a unanimous vote.

10. *Staff item/Major/Minor change for Falcon's Nest DPUD*

Jason Auvil presented the Minor change request for a site plan support drawing amendment for Falcon's Nest DPUD, submitted by Granite Ridge to allow for single family detached homes for lots 49-62. The site plan support drawing indicates that homes and lots will be single family attached. Staff recommends approval. Mr. Doriot said they previously thought there would be a draw for attached single family which is not attracting buyers.

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Blake Doriot, that this request is approved as a minor change. The motion carried with a unanimous vote.

11. A motion was made and seconded (*Miller/Doriot*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:23 a.m.

Respectfully submitted,

Andrea Wyatt, Recording Secretary

Steve Warner, Chairman