

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

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

2. A motion was made and seconded (*Warner/Holt*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 9th day of October 2008 be approved as submitted and the motion was carried unanimously.

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

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

5. The continuation of the public hearing for a replacement ***SUBDIVISION CONTROL ORDINANCE*** for the Elkhart County Advisory Plan Commission affecting the unincorporated areas of Elkhart County, including but not limited to the following townships: Cleveland, Osolo, Washington, York, Baugo, Concord, Jefferson, Middlebury, Olive, Harrison, Elkhart, Clinton, Locke, Union, Jackson, Benton, and the Town of Bristol, Town of Wakarusa, Town of Millersburg, and Town of Middlebury, came on to be heard.

Mr. Doriot moved to reopen the public hearing and Mr. Sharkey seconded the motion, which carried with a unanimous vote.

Mr. Doriot explained that he and Mr. Yoder have been working on the number of (administrative) splits and he asked if they should address that before they take additional comments. Mr. Kolbus felt they should take the public comments and then enter into their discussions.

First to address the board was Tom Canarecci who was present representing the Elkhart County Board of Realtors. He said they sent the proposal to their national association, and after reviewing it for them, it came back with a few guidelines and recommendations. Mr. Canarecci then read the following statement to the Board:

“On behalf of the roughly 400 members of the Elkhart County Board of Realtors, I would like to thank and acknowledge the commission for their many hours of hard work that they have put in so far in drafting the proposed subdivision ordinance. It is, however, the opinion of the Elkhart County Board of Realtors that while the majority of the proposal is good and well drafted, there are a few issues of concern dealing with clarity, fairness, property values, and landowner rights.”

Issue One: The proposed subdivision process does not distinguish between small and large parcels in capping the number of administrative subdivisions thereby concentrating the burdens of the proposal on larger consolidated acreages. For example, property owner one has a ten acre parcel. Under the proposal, he would be allowed two administrative subdivisions. Property owner two has 120 acres. Under the proposal, he too would be allowed only two administrative subdivisions thus having an adverse affect on property owner two's value. At the same time, the proposal fails to take into consideration the lifestyle of Elkhart County's Amish community. The Amish provide Elkhart County businesses a quality, stable workforce and generate revenue through tourism. We must protect this quiet community.

Issue Two: The proposal grants unbridled discretion to the Plan Commission to deny subdivision applications through the basis of vague standards. This presents the opportunity for abuse of discretion by the Plan Commission at the expense of landowners. Excessive discretionary authority reduces predictability of the Planning Commission's decisions. Predictability in land use decisions is valuable for developers, enhances local property values, and makes the community more attractive for economic development.

Issue Three: Major and minor subdivision approval process is arguably too burdensome for landowners seeking to create a small, large-lot parcel with frontage on existing roads. We would request that the proposal make more distinctions between the standards applied to subdivisions with fewer lots and standards applied to larger, more intensive subdivisions. Given the limitations of the administrative subdivision process, there is too much of a one size fits all approach under the proposal.

Issue Four: The proposal potentially requires landowners to deal with run-off problems created by other landowners unfairly allocating the burden of storm water management. We suggest that the proposal's storm water management requirements be clarified to ensure that they cannot be used to penalize applicants for problems created previously or thereafter by upstream landowners. Landowners should be responsible for ensuring that additional run-off from its property does not exacerbate existing downstream condition, but should not, in fairness, be required to fix, at its own expense, issues created by inadequate engineering of storm water control for upstream properties."

In conclusion, Mr. Canarecci said it would be the request and wishes of the Elkhart County Board (of Realtors) that those issues be clarified and maybe reviewed.

Mr. Yoder asked for an example of a vague standard that has caused some problems on issue two. Mr. Canarecci said the area of the proposal they have some concerns with is that which says, "...other features or conditions which would reasonably be harmful to the safety, health, life, property, or general welfare of the present or future inhabitants of the land or its surrounding area". That area of the ordinance was then clarified to be Chapter 2, 2.03 A. Suitability of Land for Subdividing. The way the ordinance is now written, Mr. Canarecci said you come back with some guidelines for the property owners on what they need to do to correct the situation; however, those guidelines are not set forth up front with the new proposal.

Mr. Doriot asked if that precludes the petitioner from coming back with some type of engineering analysis that would address those concerns of the Board.

Mr. Kolbus pointed out that if you read further it says, "*The Plan Commission shall not approve the land for subdivision unless adequate methods for solving the problems created by the unsuitable land conditions are formulated by the owner/developer and approved by the Plan Commission and its technical advisors*". According to Mr. Kolbus, they have had situations where

they've had problems with no way to address them. The Plan Commission can't outright deny a subdivision, he said they have to say they have a problem and then specify what that problem is. They have an opportunity to correct the problem, and it's only if they can't correct it to the satisfaction of the Plan Commission that it gets denied.

Mr. Yoder explained that a number of subdivision control ordinances were reviewed that are much more detailed. He thinks their intent was to be less complicated and allow for more variability and creativity, but what you get is vague statements.

Mr. Kolbus said they tried to have a workable ordinance and still bring it within the ambit of Indiana law, which talks about how specific you have to be. There are ordinances with language like that in Indiana that have been upheld so they felt comfortable going with it, but he said other states may not find that specific enough.

It was Mr. Sharkey's understanding that they put that language in because they have approved some subdivisions in some very questionable low lands and they were told they can't tell them no.

Mr. Canarreci was asked if they would feel more comfortable as long as they had some way to come back and rebut that. He said he sees there is an opportunity to come back and rebut, but there was some question as to putting the burden back on the potential developer to come up with the solutions without some guidance or recommendations from the committee up front.

Mr. Doriot suggested they put in some type of statement that the Plan Commission and/or the planning staff shall have a list of things they feel are non-compliant or problematic with the development and what needs to be corrected. By state law, Mr. Kolbus said they have to specify in detail why they are not granting primary approval. He clarified that in that order by the Plan Commission, they would have to specify what the problem is sufficient enough for the petitioner to react to it. If they don't, it will be overturned by the court so he said the process is there.

Gretchen Helman, 3810 St. Andrews, Elkhart, was present representing the Builders Association of Elkhart County. She explained that their 400+ members spent several months last year reviewing the initial draft and they proposed some changes. When the final ordinance was brought to them a few months ago, they reviewed it again and agreed it was a good document. The invitation was open to all 400+ members at the time to give their input and she said 12 to 15 did that. She feels a broad spectrum of members was represented in this process, which included developers, builders, a few realtors, and several engineers.

Ms. Helman said they support this ordinance in its present state, but she is bothered by the proposal she was just given with no limit on splits. Many years ago several of their members were on the Land Use committee for the Horizon Project and agreed that we need to be better stewards of the land. Therefore, she feels an unlimited number of splits would be in direct contradiction to what started this discussion in the first place prior to the subdivision ordinance.

The proposal Ms. Helman referred to was then submitted to the Board *[attached to file as Petitioner Exhibit #1]* by Mr. Doriot. He explained that he and Mr. Yoder have reviewed and discussed this proposal with the Amish community and representatives from Farm Bureau.

Also present was Daniel Bontrager, 15030 CR 126, Goshen. They have been in several of the meetings and their main concern is the future for their children and grandchildren. He wonders if they will survive in Elkhart County or if they need to move out. He then requested that the ordinance not be passed as written in the last meeting, and he indicated that he would have preferred to address the Board after the new proposal is discussed. As a contractor who has often obtained building permits and variances, Mr. Bontrager said he has always appreciated what he was

able to accomplish. He wants to show that appreciation by trying to work together on this ordinance.

In presenting his proposal titled "Buildable Tracts" (Petitioner Exhibit #1), Mr. Doriot explained that he met with the president of Farm Bureau, Jim Weeber, Farm Bureau's spokesperson, and several of the Amish Bishops. In addition, he talked with a representative of one large employer in the county, and he worked with Dean Slabaugh who has talked with a couple of large corporations.

According to Mr. Doriot, the concern is that one or two splits is just too cumbersome. Everyone thinks the administrative subdivision is just a walk in the park, but he said there is quite a bit of work involved and the administrative subdivision is going to clear up the problem tracts, several of which he went on to describe.

Mr. Doriot said the staff has been concerned about how they track the splits. It has been done in other counties, but he said it is somewhat cumbersome. In putting this proposal together with unlimited splits, they wondered what to do with the person who sells a tract of land to circumvent the administrative subdivision. In that case, he said they would have to go through the minor subdivision process to make the parcel buildable (item #2).

It item #3, they are proposing that any tract split off after the effective date of the new subdivision ordinance that is not going through the administrative subdivision shall be required to go through the major or minor subdivision ordinance to be buildable.

According to Mr. Doriot, it was brought up by several developers that they need to get the mailboxes back and put a blister in. He and Mr. Yoder feel that item #4 should be addressed at the Highway level with the Highway Standards. They suggest that a driveway blister be started where your mailbox and garbage cans are off to the side so you can get off the side of the road and not be a direct hazard.

Mr. Doriot also said that several developers are concerned that if you take the frontage off the county roads and leave 50 ft. for access, you can't financially go forward with a 600 ft. long strip when they have to build a road at \$120 per foot. One developer suggested they leave a developable strip back every so often so they are suggesting a minimum of 440 ft. every half-mile (item #5). Mr. Doriot explained that that would leave 200 ft. on each side for lots along with a 40 ft. right-of-way, which is the county standard.

In conclusion, Mr. Doriot said the Farm Bureau representatives, several of the Bishops, and a couple of the developers he's talked with are supportive of these suggestions. One developer is against the 3-acre rule and he said that developer agrees this proposal causes it to be a more even playing field and allows the rural development.

When Mr. Burbrink asked if the staff was allowed to review this proposal, Mr. Kanney indicated they had not.

Mr. Yoder said he talked with the staff on some of the issues, and from his perspective, their primary goal was to eliminate the 3-acre exemption. They have done that with this ordinance as all subdivision parcels for residential use will go through a subdivision process. He then explained that they have someone at the Highway Department whose primary job is to deal with drainage and driveway issues for the lots they created through the exemption process in the past, as well as some poorly designed subdivisions.

Mr. Yoder then recalled that there was an issue with the number of splits in previous testimony they have taken. They were trying to limit the number of splits with this ordinance, but he said it occurs to him that density should be controlled by the zoning ordinance and not by the

subdivision ordinance. In his discussion with the developers, he said it was their belief that they have leveled the playing field for the administrative subdivision process, and the major and minor subdivision process. The market incentive to go with the 3-acre rule, the exemption from the process, has been removed. What he heard from at least one developer is that it is almost better to go through the minor subdivision process if you want to create more than one split. He thinks he had an affirmation of that opinion from the staff as well so he is okay with removing the limit because that also solves the parent parcel discussion. What they do not achieve is that they are still creating 3-acre lots with the administration subdivision and he is still concerned about the ability to strip off the highways; however, he feels that item #5 of Mr. Doriot's proposal addresses that.

Mr. Yoder hopes they quickly go forward with addressing the new agricultural zone changes they have discussed. He said A-1 would be a residential area and the density would be one house per three acres or less if you go through the major subdivision process. If you want a lower density, he said you should rezone to A-2 or A-3, which they encourage if you want to be a farm community and have protection. He said this can currently be done at no cost, and he feels that is a reasonable approach and compromise with the agricultural and Amish communities, as well as with Farm Bureau.

If they go through with no limit on the number of splits, Mrs. Wolgamood asked how 4.01, B. 1 under Chapter 4 Administrative Subdivisions would read. Originally, it said that one new buildable tract at least 3-acres in size is created. Mr. Doriot interpreted that one lot is an administrative subdivision and you do one at a time at least 3-acres in size. If you deem it to do another one, then you go through the next one (administrative subdivision), which is where the developers are saying this makes it more fair.

Mr. Kolbus said #8 under 4.01 B. would have to be deleted. When asked if everything else is okay with #1, Mr. Kolbus thought the staff had a suggested change with regard to the statement that residual parcels created shall retain their grandfather status; however, Mr. Kanney said that was based on something he had heard earlier.

Mr. Doriot commented that if the residual parcel has already been developed with a home, they can still get remodeling or rebuilding permits.

Mr. Kolbus said they can probably replace #8 with item #2 of Mr. Doriot's proposal with a minor modification. To clarify it more, he suggested that the proposal say, "A buildable tract created by the administrative subdivision may thereafter only be further split by a minor or major subdivision." In further discussion, Mr. Kolbus felt that item #3 of the proposal is covered in the first sentence in Section 1.04 B, Metes and Bounds Tracts, which he went on to review with the Board.

Mr. Yoder felt that item #5 of Mr. Doriot's proposal is essentially a limit to the number of administrative splits based on the amount of frontage that is left. When asked how he felt about that, Mr. Kolbus wanted to know if the staff felt that should be in the Highway Standards, this ordinance or the zoning ordinance. Mr. Kanney said the procedure they tried to take was a comprehensive thoroughfare plan they started to develop. When they did the comprehensive plan, they noted there was not a county thoroughfare plan the way a comprehensive plan would address it. The method behind that was to limit curb cuts and spacing based on arterials, primary arterials and state roads. A comprehensive plan is not a law, but he said it would be the basis and if you went through zoning, you would be basing it on the zone. If they had a comprehensive thoroughfare plan like they hoped to have, he thinks they could direct the Highway Department to adopt those kinds of standards.

When Mr. Kolbus asked if a road frontage requirement would be in the zoning ordinance, Mr. Kanney said he thinks the highway ordinance. He thinks we can regulate frontage on the public road, but he's not sure how we could regulate no construction. If he had a comprehensive plan that said this is a major arterial and eight driveways were permitted per mile, he said he would have an idea whether they had an opportunity to strip the road off more than what has already been done.

Mr. Sharkey agreed saying not every county road in this county has the same traffic and it's very difficult to treat them the same. He feels it should probably be addressed in the highway ordinance because they are the ones designating arterial and secondary roads. Mr. Kanney said they have in their ordinance now that certain roads cannot have subdivision lots directly onto that road with a driveway, and he thinks they could also have that leeway with the number of curb cuts. When asked what that is based on, Mr. Kanney said primarily the amount of traffic.

Mr. Miller asked if they would look at this differently if we had a high-use road that wasn't highly developed along the sides and suddenly they widen the road. Mr. Kanney said those things are what you get into when you talk about a comprehensive thoroughfare plan. You can predict what roads are going to become major thoroughfares over the years and he said you can base things on the current traffic.

Mr. Miller hopes the comprehensive plan envisions the future and allows them some leeway without making changes. Mr. Kanney said that is what the comprehensive plan says, but he thinks you have to go the next step. He said the state law talks about a county-wide comprehensive thoroughfare plan that would dictate those standards and predict for the future. He agrees that the zoning ordinance should be the next step, but simultaneously they need to work on that county thoroughfare plan.

When asked if she had any comments on that, Gretchen Helman said she might after she takes it to the Board of Directors. Mr. Yoder pointed out that this will be a recommendation to the commissioners and she will have a chance to address it at the public hearing during the commissioner's meeting. However, Mr. Burbrink felt that everyone needs to have a chance to address Mr. Doriot's proposal because it is substantially different.

Ms. Helman said putting this in either highway or zoning is something she thinks their Board would look at, but she doesn't know whether favorably or unfavorably. Their biggest concern is the frontage on particular roads, but if the Highway Department has some guidance on that, they hope that they would be looking at the overall picture. She was in full support of the document, but if 4.01 B. is altered in any way, she said she would like to take it back to the committee for further review.

If he has a tract of land that is three-eighths of a mile long and 440 ft. (of frontage) is required every half-mile, Daniel Bontrager asked who would be entitled to the curb cut, he or his neighbor. Mr. Doriot assured him this will all be worked out in the Highway Department. Mr. Bontrager feels this is a workable plan and he supports it more than what was presented at the last meeting.

Next to address the Board was Jim Weeber, 57564 CR 115, Goshen, who was present speaking on behalf of the Elkhart County Farm Bureau. He said they are in support of the discussion they just had, and they support moves in that direction regarding this ordinance. He feels they will get to any other questions that would be addressed when they cover the zoning portion of this situation.

Also present was Nancy Brown, 72811 CR 137, Syracuse. She did not get a copy of Mr. Doriot's proposal and she said she doesn't know what this change means; therefore, she doesn't feel she can make an informed statement at this time.

Mr. Kolbus explained that the main thrust is that one of the issues the Plan Commission has been dealing with is the number of administrative splits. The original proposal was two splits per parent parcel, but he said there were other proposals such as one split per year, splits based on size, splits based on the underlying zoning district, none, and unlimited splits provided you meet the standards. This proposal is basically unlimited splits with some standards that will go into the Highway ordinance.

Ms. Brown thanked him for that clarification, but she said all of this work happened because so many people in Elkhart County were frustrated with the 3-acre rule and every highway being stripped out into 3-acre lots. The remaining farm land in the back was extremely difficult to farm because you had to deal with mailboxes, houses and people, and she said they were losing the integrity of our rural portions of Elkhart County. She explained that her farm already has two houses on it because they now own contiguously from her father-in-law's house to their house so it is now one lot. She's confused on what they are calling a parcel and what they are going to do, and she's not sure that a 10-acre parcel and a 300-acre parcel should be treated the same. Ms. Brown said it concerns her that they are going to continue to allow unlimited 3-acre splits in the rural areas of Elkhart County because that is what they went through all this pain to deal with. If they do accept unlimited splits, she asked if they have changed anything.

In response, Mr. Doriot said they have taken away the 3-acre splits and there will be much more thought required before you split your property. Right now, he said he could survey off a 3-acre parcel and have it recorded on a deed to obtain a building permit, but Ms. Brown said only if you can get a septic and a highway cut. Mr. Doriot said that is correct, but this makes the landowner think it out first and the process is a lot more difficult than everyone is thinking.

Ms. Brown then requested that if they approve this subdivision ordinance, that it be done on the condition that all of the other things they think are going to happen actually do. Mr. Kolbus said the Highway Standards would have to be changed and she said exactly.

Mr. Lantz agreed that the 3-acre rule with log narrow lots and the 3 to 1 ratio is wasting acreage. Mr. Doriot agreed and said he would change it to an acre and a half in a minute, but that isn't going to happen. Ms. Brown wanted to know why they are still hung-up on 3-acres and Mr. Yoder said they decided the 3-acres is a density issue.

Mr. Yoder feels she clearly captured an important part of the argument, which is the unlimited number of administrative splits. He feels that limiting the number of administrative splits will not stop that from happening because you can still go through the subdivision process. The 3-acre rule is gone, but if they want to limit that kind of urban encroachment and control density out into the rural area, he said the farmers are going to have to rezone their property to A-2, A-3 or A-4.

Ms. Brown then asked if the statement they were debating about taking out last month will stay in the ordinance, which says if you build next to an A-2 you understand you're building next to a farmer and he is going to farm. Mr. Kolbus said that is one of the issues they have to decide today. After highly recommending that the statement remain in the ordinance, Ms. Brown said it sounds like her concerns have been addressed.

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

The Conflict in Zoning Statement was discussed at this time. Mr. Kolbus explained that this statement is broader than just the ag statement, and it is related to subdivisions going next to an agricultural, business or manufacturing use. The question was if they want the statement in or out

of the ordinance, or if they just want it a pure agricultural statement.

Mr. Doriot recalled the staff had problems with the potential legality of including those zones other than agriculture because it had not been tested. Mr. Kolbus said they didn't have a problem with it, they just said that was the basis for having it originally as a purely ag statement. As he and the staff have worked on a revision, he said they would support that revision.

When the wording of the revision was questioned, Mr. Kolbus said that the lots in a subdivision are near agricultural, business or manufacturing properties, operations or uses rather than just near agricultural.

Mr. Yoder moved to include the Conflict in Zoning Statement as submitted at the October 9, 2008, Plan Commission meeting (*see attached*) into the proposed Subdivision Control Ordinance and Mr. Doriot seconded the motion. A roll call vote was taken and the motion was carried with a unanimous vote.

Mr. Kolbus explained that there was no controversy at the October 9, 2008, meeting about the revised definitions of a Lot, Parcel, Tract, and Unit that were submitted, but they were debating the definitions of a parent parcel. He said he would like to see those four definitions incorporated into this ordinance.

Mr. Doriot moved to include the revised definitions of a Lot, Parcel, Tract, and Unit into the proposed Subdivision Control Ordinance (*see attached*) as submitted at the October 9, 2008, Plan Commission meeting (eliminating the two definitions of Parent Parcel). Mr. Yoder seconded the motion, which then carried with a unanimous roll call vote.

If you have unlimited splits, Mr. Kolbus said you can delete the definition of Parent Parcel, and you would delete #8 (Chapter 4 Administrative Subdivisions, 4.01 B.) as written and replace it with #2 of Mr. Doriot's proposal (Petitioner Exhibit #1) as modified by the Board. He also said that 4.01 B. 1 would remain with the residual parcels that are improved having standing as buildable tracts as submitted at the October 9, 2008, Plan Commission meeting (*see attached*).

Mr. Doriot moved that Chapter 4 Administrative Subdivisions, 4.01 B. of the proposed Subdivision Control Ordinance be revised as follows:

1. That one (1) new buildable tract, at least three (3) acres in size, is created. Residual parcels created by the administrative subdivision that are improved (have been issued an improvement location permit prior to the residual parcels creation) and still meet the minimum requirements of this Ordinance for a lot have standing as buildable tracts without going through the subdivision process.
8. A buildable tract created by the administrative subdivision may thereafter only be further split by a minor or major subdivision.

For clarification, Mr. Miller questioned what it means to have unlimited splits or splits based on size. Mr. Kolbus said you are just taking out #8, which allows two administrative subdivision splits per parent parcel. You can split a parcel of land under the administrative subdivision ordinance from any parcel you have as long as you meet the standards of the subdivision, zoning and highway. There are still restrictions that will be built into the standards.

Mr. Yoder then seconded the motion and the motion carried with a unanimous roll call vote.

In discussing the size of administrative parcels, Mr. Lantz reiterated that much of the concern with the 3-acres is the waste of acreage in the back. If you want livestock for the 4-H program he said you need three acres, but you don't need three acres if you want to live in the country. For those who rent land, he said a lot is used up or even sold if you have to make a farm payment so he feels it would be nice to be able to split off an acre and a half. He indicated that you

can probably get the same amount of money for an acre and a half and then you can still farm the back.

It is often mentioned that if you're doing a strip development along the road the County will provide all of those services, but he said the County will still plow the road. More often than not we will not see sewer extended so he questioned what else there is for service. Nothing is really going to change except that you have a house on an acre and a half lot. If they go with three acres, Mr. Lantz feels they need to eliminate the 3 to 1 depth to width ratio. He suggested the parcel could be wider and not as steep and then you have one road cut so you've eliminated some of the road cuts along the country roads. He feels this gives them more options and it doesn't really hurt anything they are doing now.

Mr. Lantz also suggested they zone property according to its use and the key to it is the density base. For example, if you have a row crop farm and you want to sell 10 acres, and you also declare the farm to have a density base of ten acres, that allows you three splits. If you have a family farm and want to keep the farm in the family for some time, then you could look at three splits on 10, 40, 80 or 160 acres as an example. Mr. Lantz said you get to call your zone, and with that you have a density base you agree to live with. On 160 acres, he said you may be looking at just three splits, but if you don't mind having neighbors live a little closer, you could back that off to 40 or 80 acres. He said you would have those options based on what you choose as a density base of urban growth, and it gives you more various kinds of land to sell, which he went on to give further examples of.

On the other hand, if you want to move out of the area and sell your property, Mr. Lantz said you would then follow the rules and regulations of a major or minor subdivision. He's trying to find a happy medium where you could make a choice as a property owner and it doesn't inflect anything on your property rights because you made the decision.

Mr. Kolbus asked how small you can make a lot for a minor subdivision in an A-1 zone and Mr. Doriot said 20,000 sq. ft. right now, which is a half acre. If they really care about the land in the back, Mr. Kolbus said you can solve the lot size issue by doing a minor subdivision and Mr. Doriot agreed.

Mr. Sharkey commented that doing an A-2 or A-3 is also controlling your base and Mr. Kolbus agreed.

Mr. Lantz said the process of doing a major subdivision scares a lot of people and he feels his proposal would streamline that process.

Mr. Sharkey's concern with an acre and a half is that you would have a lot of nooks and crannies to farm around after selling several parcels of that size, but Mr. Burbrink said that is already happening with the three acres.

Mr. Burbrink thanked Mr. Lantz for sharing another idea and he said that is something they need to look at in zoning.

Mr. Warner asked Mr. Yoder if sees a balance of the minor subdivision and the administrative split going forward, or more details of the actual cost and procedure for each. Mr. Yoder said they have added cost and time with the administrative subdivision and he thinks they will just have to see how it plays out.

Mr. Doriot said he thinks it depends on the culture. In the conservative portion of the population, he thinks there will be more administrative subdivisions and there will be more minors and some administrative subdivisions with the less conservative population. When asked what level of planning he sees going into the administrative subdivision verses the minor, Mr. Doriot felt

about the same. He feels it gives the staff a little more responsibility, but that it will move quicker.

Mr. Warner asked if he thinks that point is moot by adding unlimited administrative splits. Mr. Yoder said the only significant difference between administrative and minor he sees is the fact that the staff can do it verses bringing it to the full board so you save 30 days. Other than that, he feels they have really leveled the playing field so they've taken that economic incentive to do the shortcut. When a farmer wants to sell land for whatever reason, he will decide if he really wants to lose two acres of farm land if he can get the same money for an acre if his soil will support a septic system, or he will spend an extra 30 days to go through the minor subdivision process because it won't be that much more expensive.

Mr. Yoder said he's banking on the market to drive the farmers or landowners to sell land in a way that makes them the most money and he's thinking that creates smaller lots. Mr. Doriot thinks it will take 45 or 60 days longer, but Mr. Yoder said they hope they can streamline that to make it shorter. What they have really accomplished, Mr. Yoder said, is that everything that gets subdivided for residential goes through that planning process and will take care of the drainage issues. When people buy a buildable lot, he said it will be buildable.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Holt*) that the Advisory Plan Commission forward the proposed Subdivision Control Ordinance as amended to the Board of County Commissioners with a positive recommendation. A roll call vote was taken and the motion was carried with a unanimous vote.

Mr. Yoder then suggested they form a committee to work with the Highway Department to address the issues regarding the driveway blister and the thoroughfare plan. Mr. Kolbus agreed they need a committee or the staff to work with the Highway Department to get those done and Mr. Doriot offered his help.

Mr. Yoder then moved that Mr. Doriot and the staff work with the Highway Department to address those two issues. Mr. Sharkey seconded the motion, which carried with a unanimous vote.

* (*It is noted that Mr. Doriot stepped down from the Board at this time.*)

6. Presenting the ***Northwest Gateway Area Plan*** was Dave Foutz, a member of the Elkhart County Redevelopment Commission and Elkhart County Council. He noted that members of the Redevelopment Commission and some of the community representatives from the area are also present, along with Cynthia Bowen and Jenelle Collins representing RW Armstrong, the company that has developed this plan.

According to Mr. Foutz, the Redevelopment Commission has been working on the planning process the past nine months, and in October 2008, they hired RW Armstrong and Green 3 to assist in creating a new plan for the Northwest Gateway. The project began in February 2008 and was kicked off with a meeting of the Steering Committee. The Redevelopment Commission undertook this project because it was recognized that the Northwest Gateway was likely to experience significant changes in its physical and economic composition in the coming years. The purpose of the project was to create a plan that would establish a vision and guide future growth and development.

The project was developed over a nine month period with oversight from a Steering Committee that consisted of members of Redevelopment Commission members, stakeholders representing various public and private sectors and entities, along with the residents of the neighborhood. The process was truly a community-based operation and residents provided input at

two different public meetings, which he briefly described. The public meetings were designed to measure and evaluate neighborhood input. The Steering Committee met monthly to discuss direction and recommendations, and they took bus and river tours around the area. In the process, he said they checked 12 various locations and determined specific land uses, and they are looking at transportation, recreational and commercial issues.

Mr. Foutz continued saying the Northwest Gateway Plan reinforces the County's Comprehensive Land Use Plan, and would be an amendment to the Land Use Plan as a growth policy for the Northwest Gateway once adopted by the Plan Commission and Commissioners. This plan should serve as a tool to be reinforced and considered with all new development petitions located within the Northwest Gateway area over the next 20 years.

A map of the gateway area was displayed and reviewed at this time. Mr. Foutz pointed out that Ash Road belongs to St. Joe County in terms of maintenance, and the heart of the corridor is Old US 20.

Mr. Foutz said the opportunities and constraints were identified at the beginning of this process. Input came from steering committee meetings, surveys, and exercises during open houses and consultant team site visits, and he said the framework sets the stage for future development. The new Cobus County Park and Cobus Creek were pointed out on the map. They also discovered an old railroad bed that probably goes all the way back to the turn of the last century is still there and could be a good recreational corridor at some time. You don't get linear space like this very often that is not developed, and he said it actually goes down to the old landfill site on the corner of CR 10 and Weaver Parkway, which the city is going to redevelop into a park.

Mr. Foutz asked how many times you have driven down Ash Road and across the bridge on the St. Joe River. This is a unique bridge that is on the historical record, and he said a number of the incredible aesthetic pieces in this area are outlined. Unfortunately, he said we often look at the constraints more quickly than we look at the opportunities. There is a lot of territory there and he said this is property that is underutilized and deteriorating. Some of the property also has some environmental issues so he said there is some need to improve that area. Mr. Foutz said this is a gateway into Elkhart City and Elkhart County, and the image they want to project, this may not be the image they are looking for.

With regards to limited access to the river, Mr. Miller asked if he means the public and not people who live on the river and Mr. Foutz replied yes. He kayaks on the river and he said the closest place to access is at McNaughton Park. There is also a pull-out at Baugo Bay that is accessible, but there isn't a lot of direct access to the water in between. Mr. Foutz said the river is a public resource that is underutilized and he feels an important piece of this puzzle.

Mr. Foutz went on to say that the Vision Statement was brainstormed by the Steering Committee and was reviewed with the public at the open house in March. It continued to be refined by the Steering Committee at the meeting in April. In reviewing the Vision Statement with the Board, he said it is an inspirational statement and how the Northwest Gateway will grow and develop over the next 20 years. It serves as an overarching framework prefacing all goals, objectives, recommendations, and their action steps. He clarified that this statement was written from community input and how they want to see their neighborhood.

In addition to the community being involved, Mr. Watkins said they also had a planner from the City of Elkhart and the Assistant Director from the Area Planning in St. Joe County at almost all of the Steering Committee meetings. From the Vision, he said the organization of the plan started to come into place. The Vision is a very broad-based view and the community's view of what the

area should look like or how it should develop over the next 20 years. Goals they created from the Vision include identity, what it will look like, what they associate it with, land use, what uses are appropriate, the mix of uses, and mobility. He said traffic is a big issue, not only vehicle traffic but also pedestrian traffic. They are trying to make this a project where it's easy to get around on foot or bicycle. He also said that economic development always comes into play.

From the goals they developed objectives, which are basically measurable statements indicating how they are progressing with their goals. They then provide recommendations on specific procedures to meet the objectives, and what action steps or how to implement the project detailing the steps and tasks that need to be completed to achieve the recommendations. He said the recommendations for land use, mobility, economic development, and identity all play against each other, they interact with each other, and depend on each other. For example, if they make a decision with regard to land use, then he asked what that would do to mobility. Does it increase or improve traffic. He questioned if they are allowing for people to get there without getting in their car, which is something he feels they need to be concerned about in the future. The plan provides a system to help guide decisions based on the vision for the future, and tries to anticipate the impacts and outcomes of those decisions.

Under the Land Use goal, Mr. Watkins said the land use planning provides the location, quantity and type of growth. The plan focuses on maintaining and enhancing the residential character, maximizing existing investment, facilities, and infrastructure, and promoting redevelopment of underutilized commercial and industrial areas. Specific objectives provide a range of housing types, promote new, compatible development, protect land uses from encroachment of other uses, locate community facilities in close proximity to residential areas, designates zoning classifications to promote mixed uses and development, and providing shovel-ready sites for new investment.

Mr. Watkins said the mobility goal interacts with all of those land use statements. The plan includes both vehicular and alternative transportation facilities such as the interurban trolley, footpaths, and bicycles, and how all of those interact. The plan seeks to create an environment where there is coordination and cooperation to create a balance to safe, multi-modal system that connects various points within the Northwest Gateway. He said there has even been discussion of making mobility access to the site from both out of county and outside of the area easy.

Specific objectives include requiring adequate right-of-way and completing intersection improvements. Mr. Watkins said a good deal of time has been spent talking with the Highway Department with regard to the need for intersection improvements, and at one point, they expanded the TIF district to make one additional intersection available to the TIF funds so mobility has had a high-priority in this process. Developing access management standards, expanding resources through intergovernmental cooperation among jurisdictions, and increased transit, pedestrian and bicycle traffic are other objectives.

Next to address the Board was Mike Huber, a member of the Redevelopment Commission who was active on the Steering Committee, and also a resident of this gateway project area. He was happy with both the support from within the neighborhood that came out during development of the plan, and also the Redevelopment Commission's initiative and the guidance of the consultants in the development of the plan.

In talking about the identity of the area, Mr. Huber said it's his opinion that prior to this plan there really isn't a huge identity with the plan. One of the most positive things he feels that came out of the process is that the area developed a vision for themselves, and that's the fact that they are

an interconnected network of neighborhoods. They want the gateway to be a welcoming interconnected network of neighborhoods embracing all of the natural features they have within the area, as well as their strategic location. He said integrating those multi-modal transportation opportunities to support the thriving residential communities they have in the area, and enhance and make the retail centers even more prosperous creating new and better employment destinations and recreational opportunities that can serve the area that are well planned and sensitive to the environment and cultural character. According to Mr. Huber, that lays the foundation for creating that identity.

Mr. Huber explained that Green 3 displayed a couple of different theme options for what the identity might be based on. One of things that stuck out to everyone in the area was the bridge mentioned by Mr. Foutz. Beyond it just being historic, he said it truly is a significant visual identity within the area. They gravitated toward that bridge as being the icon that sets the identity for the area. The identity is important as it does address all of those natural and cultural resources, the environmental quality, and that sense of place that was defined in that vision. He said a lot of their specific objectives are related to improving and protecting the area's water quality, preserving the bio-diversity, and the native landscapes that are found in the area. With the help of this plan, they feel this area can be on the forefront of implementing sustainable development practices.

Mr. Huber went on to say that encouraging environmental clean-up and remediation is important. They have issues in the neighborhood and they need to make sure that those are taken care of to make the area more suited for the kinds of development they want to see happen. Establishing design standards and developing a brand identity are some of the first things they want to focus on in the area. He said those design standards and that brand identity will help them achieve the next portion, which is economic development. They understand that with Wal-Mart coming in, there is going to be pressure for new development in the area and they want to make sure that it is focused and up to the level that they think portrays an aesthetically pleasing view of the area. They want to make sure they will support any state, regional and countywide efforts working hand-in-hand with the EDC. They have a lot of opportunities both industrial and commercial for redevelopment in the area, and they want to make sure they understand they have a more focused plan within our area for what should happen to help them guide their county-wide economic development activities.

According to Mr. Huber, it's a local community development effort utilizing the tools and resources they have available through regional partners to create that business-friendly climate that meets the retail and commercial needs of the residents, visitors and businesses in the area. Specific objections related to that will revolve around marketing. Once they develop that brand, he said they have to market their strategic location. They also have to work with our existing businesses and make sure they are successful as well as recruit new businesses to the area. We have to make sure our infrastructure is capable to handle the businesses' needs in the area, and make sure they are making good placement between where they go within the gateway, and making sure that locally we have the capacity for people to implement the economic development objectives.

In conclusion, Mr. Foutz said with the delivery of anything, you want to know what it's going to grow up to be. Plans, like children, do not grow up without guidance and some parameters about their boundaries. He reported that there were over 50 recommendations that were provided in the public hearings at the open house in September, and he is looking at those recommendations as those sorts of parameters for the development of this area.

Based on that meeting, Mr. Foutz explained that the Steering Committee prioritized the recommendations and ten were identified to be among the first initiatives to be undertaken for the area. There are two top recommendations in each of the four categories (Identity, Land Use, Mobility, and Economic Development), and it will be imperative for the Economic Redevelopment Commission to prioritize them.

One of the things that will be very important is to come up with an overlay zoning plan for that gateway area, and he said things that would reinforce and promote architectural and aesthetic continuity in the area. His district is North Cassopolis Street and he thinks they can develop this overlay zoning plan for gateway areas and then apply it where it's appropriate and get a lot of the same benefits from other gateway areas. It's his feeling there are so many similarities (from the city limits to the state line) between Cassopolis Street and Old US 20 that they can get out of this project.

Mr. Foutz said one of the things in the Executive Summary (page three at the end of Chapter Seven and page 96 and 97 of the main draft), is a list of stakeholders. He explained that it talks about the kinds of groups they can pull in together so the county government isn't doing all of the heavy lifting. There are a lot of people who are involved and interested in this who they would like to pull in. He envisions the county government being the conduit for providing an atmosphere that encourages people to step up and provides them with that opportunity. Mr. Foutz said numbers nine and ten would probably be things that are instrumental in developing initially to make things happen. As a Redevelopment Commission, they are looking at areas that they might be able to take over and make available for commercial space.

Mr. Watkins indicated the next step is to take formal action on the plan. When they have a final draft, then a public hearing will need to be scheduled. As a part of the public hearing, an adoption will be recommended as an amendment to the Elkhart County Comprehensive Plan. Once that's done, then it will be time to work on the overlay, which will become an amendment to the Elkhart County Zoning Ordinance.

Mr. Kolbus said the Comprehensive Plan has objectives and policies for the county. He feels that what they would actually adopt as part of the Comprehensive Plan is a boundary map in Chapter 5, which is the visions and goals of the objectives. He said it would be alright to incorporate some of the recommendation in there as well. Everything is relevant, but in terms of what the Board has to adopt, it has to be something very narrowly drafted.

Mr. Watkins said in addition to considering approval of an amendment to the plan, he feels the Board should thank the Redevelopment Commission for the tremendous amount of work they have put into this plan over the past nine months. He feels this is a huge next step on their part.

Mr. Sharkey asked if zoning indicated in future land use mirrors today's zoning, but Mr. Watkins said he thinks there are some significant changes. Mr. Kolbus suggested adding some maps to Chapter Five.

Cynthia Bowen, Consultant with RW Armstrong, explained this is to provide guidance about the character of the development that they want to see in these specific areas. They have noted mixed use in a couple of these areas, which means that there could be a mixture of commercial and housing in those areas. Ultimately, what the Redevelopment Commission would like to see is the areas along US 20 remain commercial and the areas around Old US 33 and CR 12 to stay industrial. She feels that the land use map provides guidance for that. When they looked at the zoning districts as part of this, some of the zoning policies that had been undertaken had allowed some of the industrial to come into the residential areas. Ms. Bowen explained that begins

to destabilize neighborhoods, so they are recommending that an overlay district be created. The overlay district would not change any of the base zoning districts, but this area would create additional standards to help manage this land use plan. She said those recommendations can be found in Chapter Five and Chapter Seven.

Mr. Yoder asked Ms. Bowen to explain how an overlay district changes the map. In Indiana, the law wants you to have a land use plan that provides guidance on what needs to happen, which would be the policy. Once this is adopted, then an overlay district would be created. All of the current zoning regulations would still apply because it affects the entire county. She explained that in order to change the identity, help promote economic development, and help manage this land use, the Redevelopment Commission recommends putting an overlay district in place that would apply only to this area. An overlay district is a district that has standards that are different from the base standards. The Board would be able to define very specific standards to help create the land use pattern and promote economic development. It would also allow the existing neighborhoods to be protected and preserved as well as protect and promote water quality recreation. The Board would be able to design standards that would only impact a certain area.

Mr. Foutz explained that he spent a lot of time in Carmel and in that area, they have a particular set of standards that overlays the broader and general standards. They are able to get more defined results as a result of that.

Mr. Sharkey asked if they are going to take someone's land that is zoned commercial and now say it can only be residential. Ms. Bowen said they are not changing the character of the area. Mr. Kolbus said the overlay will not change the underlying zoning map. Mr. Watkins indicated that standards should be adopted in those areas.

Jim Skillen, member of the Steering Committee and the Redevelopment Commission, said that one challenge they have inside of the area is Old US 20 near the new Wal-Mart because it is zoned manufacturing. They aren't asking for that to be changed from a manufacturing zoning, but they don't think it's in the community's best interest to put factories in this area. However, if someone came before the Board and met all of the criteria of an M-1 zoning district, then the Board really has an obligation to give them the ability to construct the building there. He feels that they are giving the Board a level of control to put what's appropriate in the location rather than what the existing zoning is. There are other businesses in the same corridor to the east that are operating in residential districts with Special Use permits. When that business changes, then the person would need to come back to the Board to get permission to have a different type of business. Mr. Skillen explained that the overlay district will give them the authority to manage each situation better without going in and changing the zoning.

Mr. Lantz asked if the overlay requires everyone to have a certain type of architecture. Mr. Skillen said they won't go into an existing subdivision and require a new architect, but there is land available for development of a new subdivision. He feels that economics will drive the practicality of the plan.

Kevin Foy, member of the Steering Committee who lives in the neighborhood adjacent to this, explained that he was skeptical at first about spending thousands of dollars on this study, but he wishes they would have done it ten years ago. He has been in the area 20 years and he feels their hands have been tied as far as telling people what they can and can't do in the area.

Mr. Sharkey feels that a lot of time and effort has been put into this. He commended everyone for the hours they have spent on the project.

Mr. Kolbus asked if they have a deadline for the Plan Commission members to give feedback. Ms. Bowen indicated they would be back in two weeks for adoption at the December Plan Commission meeting.

Mr. Burbrink said seven out of the ten bullet points in the Executive Summary affect the Plan Commission so they will need a substantial input from us.

Mrs. Wolgamood said she sees this as the first step into additional gateways into Elkhart County. Mr. Watkins indicated he feels this is the first step in changing how things are done in Elkhart County. The challenge for the Plan Commission will be doing the overlay zone. She's hoping they have lots of guidance.

Mr. Miller said his concern is that it costs three times as much to repair something that they want to preserve such as a bridge. Mr. Foutz pointed out that the bridge does not belong to Elkhart County. Mr. Foy added that the bridge was refurbished ten years ago and it is in good condition now. Mr. Foutz indicated they have discussed that concern with St. Joseph County and they are also aware of the future traffic flow in that area.

Mr. Burbrink asked if they are looking at something similar to this project on the other side of Ash Road. Mr. Watkins said he thinks the desire is there, but the money is not.

The only concern Mr. Sharkey has is that Elkhart County has been very friendly to industrial, commercial and residential. They have to make sure they don't make it financially impossible for them to develop in this county and have them go across the line into another county because it's easier.

A motion was then made and seconded (*Lantz/Miller*) that a public hearing be held on the final plan of the Northwest Gateway Area, or a relevant portion of it, at the December 11, 2008, Plan Commission meeting. The motion was carried with a unanimous vote.

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

7. The application for an appeal from the Plat Committee's decision of approval for a one lot minor subdivision known as **DMB CR 22 MINOR**, for DMB Custom Carpentry (owner/developer) and Anthony Cinelli (appellant) represented by B. Doriot & Associates, on property located on the South side of CR 22, 180 ft. East of Azelea Court, East of CR 11, in Concord Township, zoned R-1, was presented at this time.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083191*. He read and distributed a copy of a memo from Bill Hartsuff of the Elkhart County Health Department, which is in the file for review. This letter indicates that the proposal may only be considered if the property is a metes and bounds parcel of property and will not be sufficient for a platted subdivision lot due to the requirement to provide a reserve area for a repair/replacement septic system. The letter also indicates that this is a concept system that has not been approved and is sized for a two bedroom home. A design for anything larger will likely not have adequate area to meet minimum requirements.

Mrs. Wolgamood asked if any questions were directed to the Health Department and Mr. Kanney said yes. He was trying to understand that if the petitioner plats this lot, then he can't build on it. Mrs. Wolgamood agreed. He said their regulations of two septic systems kick in with the designation of a lot and the letter he has stated that there is not enough room. He clarified that the neighbors are appealing the decision to grant the approval of the subdivision.

When asked by Mrs. Wolgamood how the public hearing should be conducted, Mr. Kolbus said the petitioner should go forward as normal and then they would allow the remonstrators to address the Board. He explained that the Board hears it as a new petition like its being presented for the first time.

When asked for a staff recommendation, Mr. Kanney said they are upholding the action of the Plat Committee. However, he said the Health Department has indicated they cannot grant a septic system, so the land cannot be built on if it is platted.

Mrs. Wolgamood explained that the Plat Committee doesn't hold public hearings. They are the ones who look at the situation and then pass it on for Primary Approval, just as this Board does. The Zoning Ordinance says that they are to notify interested parties within 300 ft. and they have the right to Appeal the decision. Blake Doriot of B. Doriot & Associates, P.O. Box 465, New Paris, was present representing the petitioner on behalf of this request. Mr. Doriot said they have met the normal Plat Committee standards and they have a letter from the Health Department. He said there is one other avenue where they can petition the Board of Health for relief of a secondary septic system. He said they want to put a two bedroom house on the property and they have worked thoroughly with the Health Department and have met all of the requirements for Plat Committee and Technical Committee. This was a piece of ground that used to lay dormant and everybody in the neighborhood got to use it to dump their lawn clippings, branches and debris. Mr. Bates has gone to quite a bit of expense to clean it up. Mr. Doriot feels he is taking an eyesore and attempting to make it into a parcel that a family can live on.

There has been worry about pulling in a modular and Mr. Bates has agreed to build a stick built home without a basement. There would possibly be a crawlspace or a tri-level because they understand that there are some limitations to the site. Also, Bill Hartsuff was in the audience and he verified that there is an appeal process through the Board of Health.

Mr. Yoder questioned if a concept system is without a secondary field system and Mr. Doriot explained that it is a standard system.

Mr. Yoder asked if any of the adjacent lots have secondary systems for back-up, but Mr. Doriot didn't know when the subdivision was platted. He said it may have been platted before the requirement occurred. Mr. Hartsuff said the effective date of the local ordinance is August of 1991 and Mr. Doriot said that subdivision was developed prior to that date.

Mr. Sharkey asked if they obtained relief from the lot area from the Board of Zoning Appeals and Mrs. Wolgamood said yes. Mr. Doriot said as a metes and bounds described tract, it's around 13,000 sq. ft. As a lot with dedicated right of way, it left them with a 12,000 sq. ft. parcel.

Anthony Cinelli, 59046 Azalea Court, Elkhart, questioned where the property stands at this time. If the Health Department denied their request and it is not suitable to build at the moment, then he doesn't want to Appeal this request. His property borders the subject property on two sides.

Mr. Cinelli feels this is all about money and those who have lived in the area for 30 years will have their property depreciated. He's not sure if there is room for two systems or if this is the case to get the land approved so someone can build anything they want.

He wanted to purchase the property to clean it up, but his neighbors wanted to buy it to extend their backyard. There is a high water table and that is a concern since they have a mound system. He said there was an undersized house pulled into the neighborhood and it did lower the neighboring property values. Mr. Cinelli feels he didn't receive any support from the county regarding that issue. He attempted to buy this land in the past and was always told that it was not suitable to build on, but he's not sure what the other neighbors were told.

Mr. Cinelli said there is a drainage pipe that runs under CR 22 to the open field on the north to drain excess water. The pipe has been damaged because it got crushed due to the cleaning of the property. He would like to know who pays to repair that damage.

If this project goes through, the landowner will be stuck with it. He asked the Board to think very realistically and consider what they may be faced with in the future. Mr. Cinelli thinks it sad that this property sold in a tax sale when all of the neighbors expressed interest in preserving it with their property.

Also present was Larry Rabe, 24841 CR 22, Elkhart, which he pointed out on the aerial photo. Mr. Rabe pointed out a tile on the north side of the road with a concrete culvert. There used to be one on the corner of the property, but that was the one which has been smashed as Mr. Cinelli talked about. There were twelve neighbors within 300 ft. of the property who didn't get a notice of the first hearing at the Board of Zoning Appeals meeting. A petition was signed against the subdivision by 14 people.

Mr. Rabe explained that he has a view of the proposed lot from his house. He said the lot was overgrown with lots of trees and brush. Mr. Bates had stated that people use the property as a shortcut to get through the area, but Mr. Rabe said the lot is fenced on the west side, so it is not able to be used as a shortcut.

He feels that there is a water problem in the neighborhood. The septic issue is a problem and he's concerned about it being able to handle the outflow. Mr. Rabe would like the lot to remain as it is.

Dave Blessing, 25061 Country Way, Goshen, indicated he owns the duplex three lots to the east. When he first heard about this request, he was not in favor of it and still is not. The lot is too small and he said it's not going to get any bigger. The home on the lot will not be consistent with the rest of the homes in the area.

Mr. Blessing said he has heard professional testimony about the septic system. When he built his home, the county said if he wanted to do a concept system, then he would still have to have a back-up system in place. He feels there seem to be too many considerations to make this happen for one individual compared to all of the neighbors who are voicing their opinions today.

Mr. Doriot indicated that Mr. Bates is not a stranger to this community as he has lived in the area his whole life. In response to the statement that this is all about money, Mr. Doriot explained that everyone has to do something to make money and Mr. Bates builds houses for an income. He said he probably wouldn't be doing it if he wasn't making money. Mr. Doriot said the remonstrators talked about the lot being for sale and wanting to buy it, but Mr. Bates offered the property to Mr. Cinelli for \$7,500.

In regards to the pipe that was damaged, the petitioner said he would fix it if he damaged it. He would have to fix it anyways because it takes water off of his site.

Mr. Doriot explained the layout of the home he submitted to the Board was also submitted to the Health Department. He pointed out a nearby single family residence that he estimated is around 1,500 sq. ft. and he also indicated that each half of the duplex is not 1,500 sq. ft.

Mr. Doriot feels the only issue they currently have is whether to allow petitioner to go forward and seek relief from the Elkhart County Health Department as they did with the Board of Zoning Appeals.

Dave Bates, owner of DMB Custom Carpentry, 61706 CR 3, Elkhart, was also present to address some concerns. Mr. Bates said if he had known that this would not be an option, then he wouldn't have put the effort into it. He has tried to satisfy the neighbors and the Building

Department and Health Department requirements. He has put a lot more work into this than he wanted to, but he feels that a well built stick home will add value to the property. Mr. Bates explained that he looks for vacant parcels in the area that have not been developed to build up the neighborhood.

With regards to the drain tile, he said it was already crushed and not even exposed. He removed the lot off the market and had it cleared to improve it. Mr. Bates said he is trying to prove to them that he is going to build a nice home. If someone has a problem two years down the road, he said he will go back and fix it. Mr. Cinelli had offered him \$1,500 for the lot, but he didn't feel like that was enough money.

The neighbor's fence to the west is encroaching on his property by about four feet. Mr. Bates said just because the other houses have water problems doesn't mean that his will because he knows the proper procedures.

Mr. Bates had his excavator submit three plans for septic systems to the Health Department. There is no building plan ahead that called for a bi-level because there wasn't enough room in the back for the reserve area. Therefore, he changed plans so there would be enough room in the back for a septic system and a reserve. Mr. Bates explained that you are required to have 50 ft. in down slope which he didn't have due to the location of Mr. Cinelli's shed.

Regarding the concern about property values, Mr. Bates explained that the property to the east was also bought in a tax sale. He has intentions to fix up the property, which had been done with the property to the east. A lot of time and money has been invested in this, so he wants to do what he can to help out the neighbors as well as make a profit.

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

During discussion, it was clarified that the Board cannot deny a subdivision to improve a view or take into consideration potential property value changes if the standards have been met. Mr. Kolbus advised that if the Appeal is denied, they would still need to obtain a septic permit through the Health Department, so it doesn't mean the house would be built.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Lantz*) that the Advisory Plan Commission deny the appeal and uphold the Plat Committee's decision of approval for this one lot minor subdivision. A roll call vote was taken and the motion was carried with a unanimous vote.

8. There were no audience items.

9. Mr. Watkins reported that a Weed and Rank Vegetation Ordinance has been completed and approved by the commissioners. A revision to the Building Ordinance has also been written and approved by the commissioners and is awaiting approval by the State. In addition, they have also rewritten and approved an Unsafe Building Ordinance, and they are ready to enter into a contract for a new aerial photo for the GIS system and pictometry, which allows for oblique viewing of buildings.

According to Mr. Watkins, they are close to a contract on new development software that would automate the entire process and connect Planning & Development to other offices within the county such as Highway, Soil Conservation, Assessor, and Auditor. The project has been approved by the commissioners, but he said there is no contract yet. He hopes to have a contract before years' end with implementation in 2009. He then reported that he is scheduling a shootout between

the top two competitors on the same day and he encouraged board members to attend. He then indicated he would email the date of the shootout to the Plan Commission members.

The staff has also been working on updating the zoning maps into an electronic form, but he said the progress has stopped due to the loss of Tricia Bulson, the GIS coordinator. He has interviewed three candidates for the position, but two of the candidates are not naturalized citizens and cannot be considered, according to Personnel, because of the process of applying for a work visa and sponsorship.

In preparing for the New Year, Mr. Burbrink said the nominating committee for preparing a Slate of Officers has typically been the executive committee. In addition to meeting for that purpose, he said they also need to review the employment agreement with Mr. Watkins. Mr. Kolbus explained that after reviewing the employment agreement, the executive committee would make a recommendation to the Plan Commission and the Plan Commission would make the final determination.

10. The meeting was adjourned at 12:19 p.m.

Respectfully submitted.

Kathleen L. Wilson, Recording Secretary

Kate A. Keil, Transcriber

Jeff Burbrink, Chairman