

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 11TH DAY OF SEPTEMBER 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: Meg Wolgamood, Blake Doriot, Tom Holt, Dennis Sharkey, and Mike Yoder. Staff members present were: Robert Watkins, Plan Director; Mark Kanney, Planning Manager; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Sharkey/Doriot*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 14th day of August 2008 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Holt/Doriot*) that the legal advertisements, having been published on the 30th day of August 2008 in the Goshen News and on the 1st day of September 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/Holt*) 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 application for the vacation of a portion of a county right-of-way known as **BALBOA AVENUE**, for Concord Community Schools represented by Foresight Consulting, LLC, on property located on a 60 X 120 ft. portion of Balboa Avenue beginning 145 ft. west of Harding Road (CR 13) in Concord Township, zoned A-1/R-2, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082649*.

* (*It is noted that board member Steve Warner arrived for the meeting at this time.*)

Mr. Nemeth was asked why they are not vacating the entire right-of-way. He explained that the petitioner was in negotiations with the southeast property owner at the time and they wanted to make sure all of the paperwork was complete before they vacate the remaining portion of the right-of-way. He then reported that a vacation of the remaining portion of Balboa Avenue is schedule to come to the Board in October.

Bryan Clevenger of Foresight Consulting, 3810 New Vision Drive, Ft. Wayne, was present on behalf of this request. They are the land surveying, civil engineering and landscape architecture firm working on the proposed renovations and additions to the school property.

According to Mr. Clevenger, there is a lot of difficulty with circulation. They have small parking areas to the north and south and the main entrance to the school is to the north off of Mishawaka Road (CR 20). The overall project will go before the Board of Zoning Appeals next week (9/18/08), which illustrates moving and consolidating all of the vehicle and pedestrian circulation to the south of the building. The main entry to the school will be moved off of Mishawaka Road to the north to almost where they are vacating that portion of Balboa Court. They are petitioning for this vacation in order to keep the project on schedule as the building will

encroach upon that portion of Balboa Court. They have also filed a petition for the vacation of the remainder of Balboa Court as well, and he said the entire south area will turn into a larger and more convenient parking area, pedestrian sidewalks, bus drop-off area, and playground. He then indicated that he had illustrations of the conceptual overall design, but they were not submitted to the Board.

Mr. Burbrink clarified that the primary entrance will be to the south end of the school and Mr. Clevenger said that is correct. It was also clarified that the school owns all of the property surrounding the right-of-way.

There were no remonstrators present.

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

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Sharkey*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved as presented and in accordance with the Staff Analysis. The motion was carried with a unanimous roll call vote.

[9:05:33 AM](#)

6. The staff item for ***Lena Realty County Road 6 PUD*** was presented by Mr. Burrow at this time. The property is located on the South side of CR 6, between CR 9 and SR 19 (Cassopolis Street) in Osolo Township.

[9:06:21 AM](#)

Mr. Burrow distributed copies of the originally adopted GPUD Site Plan / Support Drawing to the Board for review, which shows the location of the sign for this strip mall. He then [9:06:52 AM](#) read and submitted a letter from Lyle Ryman [*attached to file as Staff Exhibit #1*] asking for a minor change to their existing sign. Attached to this letter is a photo of the existing signage, which includes an illustration of their proposed change, and an aerial photo of the property that also shows the location of the existing sign. They wish to install an amber digital display for the Half Time Bar & Grill below the Half Time sign, and they will relocate the Western Union and Greyhound sign to just below the Stogies Sign on the pole.

[9:08:15 AM](#)

According to Mr. Burrow, the tier of signs to the left was granted under a minor change approximately two to three years ago. He also said the owner of this property has not returned with a Detailed Planned Unit Development (DPUD) so this is the only option he had for them to possibly make a modification to an existing structure in a GPUD. A GPUD is not completed so a building permit cannot be issued unless a minor change is granted to the site plan.

[9:08:36 AM](#)

Lyle Ryman of Sign Image & Design, 1617 Cassopolis St., Elkhart, was present on behalf of this request. He explained that they are proposing to add a single color amber display to the existing sign. [9:09:10 AM](#) Referring to the photo of the existing sign submitted with their letter, he clarified that the green portion of the sign already exists and the amber LED is what they are requesting to add.

When asked if the Board gave permission for the green portion of the sign, Mr. Burrow said they did. He said the existing sign without the LED is in compliance with the Ordinance.

[9:10:15 AM](#)

Mrs. Wolgamood moved that the Advisory Plan Commission consider the request to add a single color amber LED sign to the existing sign on site a minor change as presented. Mr. Yoder seconded the motion and the motion was carried unanimously.

[9:10:50 AM](#)

7. Mr. Burrow read and submitted a letter [*attached to file as Staff Exhibit #1*] from ***Crossroads Community Church*** for reconsideration of their request for a minor change to the Site Plan /

Support Drawing for their church [9:11:14 AM](#), which is located on the Northeast corner of CR 17 and CR 18 in Concord Township. Also submitted was a more detailed site plan of the playground area along with the safety features being undertaken *[attached to file as Staff Exhibit #2]*. The church would like to add a playground to the south side of their existing building and west of their parking lot.

Mr. Burrow said they have tried to address all of the issues expressed last month when this was originally presented to the Board. He understands that the tower will be much shorter, and he said they are in the [9:11:51 AM](#) process of finalizing the engineering designs on the tower due to some building code issues. [9:12:03 AM](#) He clarified that they are only adding a playground area and they are representing that it will be fenced. It was also clarified that the ball diamond (across the street to the east) already exists. If approved as a minor change, he said this site plan will need to be included as part of the Site Plan / Support Drawing.

[9:14:47 AM](#) Brad Cramer of Progressive Engineering, 58640 SR 15, Goshen, was present on behalf of this request. He said the concerns regarding the use, safety and distances from the road and parking lot have been addressed. The new drawing shows the distances from the playground to the traveled portion of the road and there are roadside ditches, which he said are deep and full of water. A five-foot fence will be installed on the west and south sides of the play area with three-foot fencing against the parking lot (east side). [9:15:54 AM](#) He also said there will be two pedestrian gates in the fence in addition to one car-wide type gate at the southeast corner coming off the parking lot. He then clarified that all of the access is exterior and there is no direct access into the playground from inside the church.

[9:16:42 AM](#) When asked about lighting and if the gates will be locked, Barry Hines, executive of the ministry at the church, 57415 Alpha Drive, Goshen, said there would be some minor lighting below the tower to keep the area semi-lit. He also said the fences will be locked with most likely a key lock and there will be limited access to those locks.

[9:17:52 AM](#) Mr. Holt pointed out that this is in a gateway area for the County and he feels they also need to be concerned about the aesthetics. There are neighborhoods to the east and he feels they need detail on lighting.

[9:18:14 AM](#) Mr. Hines was then asked how often they will be using the playground at night and he said hardly at all. He pointed out that people from the neighborhood or someone passing by would have to jump the fence to access the playground so they would be trespassing. [9:18:43 AM](#) He also noted that the parking lot is lit and glows into that play area, and there is perimeter lighting around the entire facility. Both Mr. Yoder and Mr. Sharkey indicated they were satisfied with the lighting.

[9:19:35 AM](#) Regardless of the amount of detail provided, Mr. Kolbus said the focus is on whether this is still a minor change to what was presented.

[9:19:46 AM](#) Mr. Yoder asked if they are locked into a chain link fence should they decide on something that is more decorative, but still provides the same effect. If approved as they are representing and showing on the site plan, Mr. Kolbus said it would require a chain link fence unless they allow the staff to approve any minor deviations or they bring it back to the Board.

[9:20:26 AM](#) Mr. Sharkey then suggested they approve a chain link or comparable safety fence, but Mr. Kolbus said they can leave the details to the staff.

Mr. Hines said they are sensitive to the appearance issue and they will work on the tower to make it attractive and something the community can be proud of.

[9:21:34 AM](#) When asked if they are shortening the tower, Mr. Hines said the top level is

coming off and he acknowledged that that is a building issue that they are taking care of separately.

[9:21:48 AM](#)

Mr. Doriot moved that the Advisory Plan Commission consider this request a minor change and adopt the site plan to be placed into the PUD ordinance. The motion allows a deviation from this site plan to construct a fence of equal security level from what was presented. Mrs. Wolgamood seconded the motion, which then carried with a unanimous vote.

[9:22:45 AM](#)

8. At this time, Mr. Kanney distributed information regarding the *Elkhart County Northwest Gateway*. Included in this information are the Land Use Plan, Goals & Objectives, a Document Outline, and Project Schedule and Benchmarks.

Mr. Kanney explained that with the assistance of a consultant, the Redevelopment Commission is conducting a Northwest Gateway project and they have prepared a Land Use Plan. He then described the boundaries of the Northwest Gateway, which is the county line (west) up to CR 4, down to the river, down to US 33, and over to SR 19. They were originally concerned about the Wal-Mart driving redevelopment in that area and he said they have conducted a rather comprehensive plan with the assistance of the public.

[9:24:36 AM](#)

Mr. Kanney explained further that the Redevelopment Commission would like to come before the Board in November to hold a public hearing for adoption of the Land Use Plan as an amendment to the Comprehensive Plan. He said there have been many meetings held on this, which are outlined on the last page of the information he distributed. Later in the implementation phase, he said they will be asking the Board to invoke overlay zones and regulations that would implement their plan.

The Board was then invited to attend an open house being held at the Memorial High School library on Thursday, September 25th between 5:00 and 8:00 p.m. The Redevelopment Commission will have different stations talking about different aspects of this plan.

[9:27:04 AM](#)

When asked how this compares with the Four-Township Plan, Mr. Kanney said the City of Elkhart has been involved in this process as well as St. Joe County as much as possible.

[9:28:14 AM](#)

The beige area on the Land Use Plan was questioned and it was clarified to be the area in the city. Mr. Kanney said he doesn't know that that portion of the city is really part of this plan, but this is an area of urban growth so we need their consensus. Accord to Mr. Kanney, they have been involved with the sewer and water and what they expect in their growth.

Mr. Sharkey commented that this will hopefully be in the city in the future and Mr. Kanney agreed. He then indicated that city sewer and water goes all the way out to Ash Road and SR 219.

[9:29:46 AM](#)

Mr. Burbrink commented that there are three or four major gateways coming from St. Joe County so this provides an entryway into the community. When asked if St. Joe County has any similar efforts on their side of the county line, Mr. Kanney said they have been included in all of this. Although they support it 100 percent, he said they are limited in funds and he has heard of no commitments from them.

[9:30:39 AM](#)

Mr. Sharkey asked Mr. Yoder if St. Joe County is participating with the expansion of CR 4 and CR 6 and he indicated they were not. [9:31:11 AM](#) Mr. Kanney said the Highway Department has presented possibilities to speed that system up with Elkhart County spending more upfront money. Because there is a TIF in this area, he said there is a possibility of doing those intersections with TIF funds.

Mr. Burbrink asked if Ash Road is Elkhart County's responsibility, but Mr. Kanney said you are always responsible for your east and south borders so it is St. Joe County's responsibility.

In conclusion, Mr. Kanney said more information, such as a draft of the overall plan, will be provided to the Board at the next meeting so they are prepared for the public hearing in November.

[9:32:53 AM](#)

9. 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, was presented at this time (*see the attached final draft dated 8/14/2008*).

Mr. Watkins described the numerous meetings that were held in preparing for this replacement Subdivision Control Ordinance. He explained that they are working from a draft provided to the board members at the last Plan Commission meeting, and that draft incorporated the comments from the public meetings that were held. The goal today is to discuss the revisions being proposed by the staff, Highway Department and comments from the public, and then recommend the ordinance to the Commissioners for approval. [9:35:00 AM](#) He then reported that they went through the ordinance at the Plan Commission /Board of Zoning Appeals workshop last week and there were some suggested changes (*see attached*).

Prior to reviewing those changes, [9:35:24 AM](#) Mr. Watkins said the Highway Department is suggesting that the areas of the ordinance where it says "Highway Standards" be changed to "Street Standards", which will also require a change in the definition. That will make the subdivision ordinance consistent with the newly adopted Highway Street Standards. [9:36:43 AM](#) Therefore, on Page 10, A. 1, they are recommending the last sentence be changed to read, "Specific standards are contained in the Street Standards".

[9:36:55 AM](#)

On Page 11, B. 3, it says not less than 1 ft. wide which should have read 12 ft.; however, they are now suggesting that be changed to 10 ft. to be consistent with the highway standards. Their standard recommends that if you're including sidewalks in a subdivision, the right-of-way be extended by 10 ft. to accommodate the sidewalk.

[9:38:12 AM](#)

Mr. Doriot said a 10 ft. wide easement is functional, but he asked how you build and maintain anything in it because there are not too many pieces of equipment that are less than 8 ft. wide. [9:38:51 AM](#) After further discussion, the consensus of the Board was for the wording to remain as 12 ft.

[9:39:21 AM](#)

Mr. Watkins said there were also some changes made on Page 11, D. CONSTRUCTION OF STREETS, but he'd prefer to discuss them when they get to the recommended changes from the Highway Department as their proposal is a significant change in how this is drafted. The Board was in agreement.

[9:40:10 AM](#)

On page 12, E. ADDRESSING, he said they are proposing to change the "Department of Public Services" in the first sentence to just read "Department". Mr. Kolbus clarified that they defined "Department" in the definitions as the Department of Public Services so they do not need to repeat the name.

[9:40:41 AM](#)

In F. of the same section, Mr. Watkins said they are deleting the word "Variance" in the last portion of the sentence as a result of a recommendation at the workshop. Mr. Sharkey pointed out that they also need to delete the word "or".

[9:41:15 AM](#)

On page 13, he said they proposed to add two sections to Dry Hydrants in C. to further define them, and those additions were distributed to the Board (*see attached*). Mr. Watkins said the three fire chiefs he talked with are very supportive and said they liked it because of

its simplicity, and a uniform design and standard for the county has been provided to them to use.

During discussion regarding maintenance of the dry hydrant, Mr. Watkins said it has to be built to the fire department's design so they are the only ones who can maintain them. During further discussion, Mr. Kolbus said we can't impose that requirement upon the fire departments because they would not be applying for the subdivision so he suggested they could impose a condition at primary that the owner reaches a maintenance agreement and provides that to the county for their file. When Mr. Holt asked if this is addressed anywhere in the state fire code, Mr. Kolbus and Mr. Watkins both said they didn't know. If it does, Mr. Kolbus said they would have jurisdiction.

[9:46:34 AM](#) Mr. Watkins continued saying that Chapter 3 on page 17 is about major and minor subdivision procedures so they moved Major and Minor into the title.

[9:46:50 AM](#) Section 3.10 on page 21 was rewritten to make it clearer and Mr. Watkins said the only change is the addition of the word "or" after the comma (at the end of the sentence) in A. Item B, SECONDARY APPROVAL FOR SECTIONS, would read, "for subdivisions with multiple sections or phases at least one section or phase must be granted secondary approval at least every two (2) years to maintain the effectiveness of the primary approval...".

Mr. Kolbus said you have to get those approvals to keep things moving over a reasonable time period, and two years to approve a phase or stage would be sufficient. Another option is to ask for additional time or come back to the Board.

[9:48:19 AM](#) Section 3.11 could be interpreted that secondaries would have to go back to Tech Review, but Mr. Watkins said that was not their intention. Therefore, he suggests they add the word "members" after Technical Review Committee on the sixth line down.

[9:49:38 AM](#) The staff is also proposing to add #7 to Section 3.13, A. "Drainage Maintenance Certificate" as approved in Appendix E. Copies of Appendix E were then distributed to the Board (*see attached*). Mr. Watkins explained that this is the same certificate they are using now, but it was not included in the draft. The consensus was that it should be continued so #7 will add that requirement as part of secondary approval.

[9:50:32 AM](#) On page 23, Section 3.16 A., they are suggesting to remove the words "in accordance with IC-7-4-707" (at the end of the sentence). According to Mr. Watkins, this refers to written approval of a secondary, but that section of the Indiana Code refers primarily to primaries. The format could be used, but he said it is really unnecessary as all they want to assure is that a written finding be sent to the developer or applicant.

[9:51:25 AM](#) Mr. Watkins continued saying Section 4.01 on page 27 has several typos. B. 9 should say "Placement of Structure" instead of "place". B. 9. d. should say "builder" and not "building".
[9:52:01 AM](#) B. 10. a. the words "of the owner" should be added after "It is the responsibility of...". In the second sentence of 10. b.,
[9:52:21 AM](#) the word "regarded" needs to be changed to "regraded".
[9:52:26 AM](#) The second 10. b should be changed to 10. c., and in the first sentence, Mr. Watkins said he thinks "right-of-way" should be changed to "easement". Mr. Doriot agreed that easement is probably better.

[9:53:14 AM](#) Page 31, Section 6.02 DEFINITIONS, under ACCESS EASEMENT, "Private Streets" should be in all caps.

[9:53:36 AM](#) Page 35, under IMPROVEMENT PLAN(S), "Construction Plan(s)" should have been in all caps.

[9:54:16 AM](#) Page 36, "THOROUGHFARE PLAN" needs to be moved as it is out of alphabetical order.

[9:54:35 AM](#)

Page 37, "PLAN, PRIMARY" should be "PLAT, PRIMARY".

[9:55:10 AM](#)

Page 38, SEPTIC SYSTEM, Mr. Watkins said they are suggesting to delete the definition and add "SEE ON-SITE SEWAGE DISPOSAL SYSTEM".

[9:55:25 AM](#)

He said they also wish to revise the definition of SUBDIVISION, MINOR on page 40. In the fourth sentence, they suggest deleting "or under the standards set forth in this ordinance, does not involve substantial improvement, or realignment, or access to any existing county road", and after a comma add "or substantially affect existing drainage systems." According to Mr. Watkins, the other is handled in the Street Standards.

[9:56:25 AM](#)

On Appendix D, which is the requirements for a minor subdivision, the staff is proing to add a signature page like they did with a major subdivision, [9:56:35 AM](#) and then Appendix E is the Drainage Maintenance Certificate they already discussed.

[9:56:46 AM](#)

Mr. Yoder recalled having a discussion about putting Appendix E somewhere where a new homeowner would be aware of it and Mrs. Wolgamood agreed. Mr. Doriot felt that it was a good idea to try and place it somewhere, but he said most people don't read it.

[9:58:16 AM](#)

Mr. Watkins noted that three representatives from the Highway Department were present and he thanked them for their very thorough and complete review of the ordinance that he asked for. He then referred to the memo from the Highway Department dated September 9, 2008, which is their outline for proposed changes (*see attached*). Included with this memo are their recommendations for deletions and additions for several sections of the Subdivision Ordinance (*also attached*).

In reviewing those changes, Mr. Watkins reiterated that they agree to modify "Highway Standards" to "Street Standards" throughout the ordinance, and they will change the definition.

[9:59:29 AM](#)

However, he said the Highway Department's recommendation to delete a portion of Section D. 1 CONSTRUCTION OF STREETS, on page 11, is a point of consternation. Basically, he said the sticking point is who decides, and in their opinion, they decide whether or not the road is paved; the staff's opinion is whether or not it needs to be there. The staff's proposal talks about maintaining an easement for a stub-street, but it doesn't require the street to be built.

[10:00:43 AM](#)

Mr. Yoder pointed out that highway has to plow the snow so that's the reason for determining whether a cul-de-sac or a temporary turnaround is needed. So he understands, he said he thinks it's the Board's job to decide whether a stub street goes there or not, or whether they allow an easement to go there. Mr. Kolbus said it's planning and that is the Board's role.

Mr. Sharkey said he's always wondered why they require the developer to put in a stub street that goes nowhere and make the Highway Department maintain it when they don't know what's going in across the fence. He suggested they just do an easement because it can always be vacated. However, Mr. Yoder said he thinks the argument is who pays to pave that road if it happens 20 years later; the original developer or the new development.

[10:01:45 AM](#)

Mr. Watkins then referred to the last sentence under D. 2 on of the Highway Department's proposed changes that says, "Plan Commission determines continuation of a subdivision, Highway determines whether a cul-de-sac or temporary turnaround is needed".

[10:02:55 AM](#)

If they have a stub street, Mr. Doriot said the Highway Department wants it built to the property line and the representatives from Highway agreed. However, he said the Plan Commission deals with people wanting to vacate a stub street. Then, the next-door

neighbor does a development and the two developments don't want to be connected so they end up with asphalt or concrete that no one really wants. He suggested the document say they have an easement for a future road, and if and when it is necessary to build that road, the new developer shall build it. The problem with that, he said, is who dedicates it.

After further discussion, Mr. Yoder felt they need to either decide they want a connector street or they don't, and if they do, the builder at the time builds it. If it's long enough that the Highway Department says it needs a cul-de-sac, then he said it needs one or some type of temporary turnaround. Then, they just deal with the occasional development that doesn't happen and they would have to do a vacation.

[10:07:05 AM](#) Mrs. Wolgamood agreed saying she didn't want the Board to completely eliminate the idea that they shouldn't require stub streets. She said they have to look to the future, and look to the adjacent property as well as the current and future traffic counts. There are numerous situations where you have to come back out onto the county road to get to a neighbor who is in reality 300 ft. away where they should have had a dedicated right-of-way to that property before all of those homes were constructed. Whether or not the Highway Department requires that it be paved she feels is up to the Highway Department, and she doesn't feel they should allow their decision to take away from the Plan Commission's role.

In that case, Mr. Doriot said the Board should be prepared to listen to everyone in that existing subdivision saying they don't want it connected. Mrs. Wolgamood said they do, and in a lot of instances they have not required a stub street.

[10:08:47 AM](#) Mr. Sharkey agreed they should dedicate the easement, but he doesn't feel they should put the asphalt on the ground 20 years ahead of time and then maintain it.

[10:09:38 AM](#) Mr. Watkins suggested that he, Mr. Kolbus and the Highway Department work on language for this section for presentation to the Commissioners at their hearing. When asked what it will represent, he said basically that the Plan Commission determines whether or not a street needs to be there and the Highway Department determines whether or not to pave it.

[10:10:49 AM](#) However, Mr. Doriot felt the wording needs to come back to the Plan Commission if not finalized at this approval. Mr. Kolbus advised that they can go forward with minor corrections such as capitalization or typographical errors, but anything of a substantive nature should come back to the Board for review at a public hearing.

[10:11:44 AM](#) To move it forward, Mr. Holt asked if they could bring it back as an amendment and Mr. Kolbus said they could amend the ordinance to Section D. 2, provided they can make a recommendation today.

The Board then decided to continue reviewing the recommended changes from the Highway Department and then decide whether they have more major changes to work out.

[10:12:10 AM](#) On page 15, Section 2.17 B. Lot Areas Excludes Unusable Areas, Mr. Watkins said they are recommending to include who will be responsible to maintain these areas. He thinks they have already done that throughout the ordinance as they refer to these parts of the subdivision belonging either to an owner or to the homeowner's association.

[10:12:32 AM](#) Page 16, 2.21 A. Easement Required, the Highway Department indicates that Street Standards allow sidewalks in the right-of-way with increased requirements from 40 ft. to 50 ft. As long as this is addressed in their Street Standards, it is his opinion that no change is necessary to the Subdivision Ordinance. In the Subdivision Ordinance, he said they are talking about a path basically across the lot or between houses to another area and not along side a road. If it is along a road, he said it is included in their Street Standards.

Mr. Watkins explained that the requirements that are under Street Standards in the ordinance are originally from the Highway Department. That has changed, so the Highway Department made a suggestion [10:14:02 AM](#) for Section 3.04, which covers sub-points 1 through 9 of subpart D on pages 18 and 19 (*see attached recommendation for deletions and additions to this section of the ordinance*). He said the staff has no objection to their suggestions and they will include the language the Highway Department has provided.

[10:17:28 AM](#) Mr. Watkins continued saying the staff has no objection to changing “Transportation” to “Traffic” in E. 6 on page 20.

[10:17:34 AM](#) With regards to Section 3.21 B. PROFESSIONAL ENGINEER CERTIFICATION on page 25, Mr. Watkins said they agree to the suggested deletion as this too is covered in the Highway Department’s Street Standards.

[10:18:16 AM](#) He then reported that the suggestions for Section 4.01 B. on page 27 have already been taken care of. This includes changing the word “building” in B. 9. d. to “builder”; and inserting in B. 10. a. that it is the responsibility of the owner to maintain the drainage flow across the site.

[10:18:29 AM](#) The of definitions the Highway Department feels are not consistent with the definitions in the Street Standards were then reviewed. Mr. Watkins said the staff suggests they keep the ordinance definitions for Easement, Frontage, Grade, and Legal Drain as written with no change.

The staff agrees to change the definition of Lot to meet the same definition in the Street Standards from the Highway Department [10:19:06 AM](#); however, they prefer to keep the ordinance language as is for Maintenance Guarantee/Maintenance Surety since there is a potential for a need to do that for other things such as landscaping, sidewalks, berms, and buffers.

[10:19:24 AM](#)

Under Thoroughfare Plan on page 36, besides putting it in alphabetical order, Mr. Watkins said they prefer to keep their definition; however, it should be changed to reflect “as an amendment to the Elkhart County Comprehensive Plan”. He explained that the thoroughfare is something they talked about previously, and it is a planning tool for the Plan Commission.

[10:20:13 AM](#) The staff prefers their definition of Parcel, [10:20:19 AM](#) but the remaining definitions, which include Record (As Built) Drawings, Right-of-way, Road, Street, and Street Cul-de-sac be changed to the definitions in the Highway Street Standards.

[10:20:34 AM](#) Mr. Watkins then said they recommend deleting the definition of a Deceleration Lane since we don’t need it in our ordinance.

[10:28:36 AM](#) Prior to opening the public hearing, Mr. Yoder wanted to address the construction of streets and connector streets.

[10:28:48 AM](#) Katie Niblock, an engineer with the Elkhart County Highway Department 610 Steury Ave., Goshen, was present.

[10:29:33 AM](#) While referring to their recommended changes for Construction of Streets, Mr. Yoder said he’s not sure he understands the language in D. 2 (highlighted in blue). Ms. Niblock said that language is the current language in the ordinance and it is highlighted to have the Plan Commission review and change. The portion they have difficulties with is that they had limited the cul-de-sacs to 1,000 ft., but they don’t have a limit on the length of a cul-de-sac. She also said there is a difference between what the ordinance has for the length of a stub, which is 200 ft., and the Highway Department’s 100 ft. in D. 1. If there is no deletion of this, she said they would still like that changed to 100 ft. to match the language in their Street Standards.

[10:31:23 AM](#) Mr. Kolbus asked if it would be sufficient to say “the length of streets

shall be determined per Street Standards”. Ms. Niblock said they wanted you to have to refer to the Street Standards for the design of the cul-de-sac road. They didn’t want a limit on the length of that road placed in the Subdivision Ordinance because they want it to be determined by the Street Standards.

Mr. Yoder said he is agreeable to that. It’s the Plan Commission’s job to decide whether they want the stub or not, and it’s the Highway Department’s job to decide if the stub is long enough that it should have a temporary turnaround or a cul-de-sac. Ms. Niblock said they agree that Planning decides what is going to be there, but they want to be able to decide how it will be designed and constructed.

[10:32:26 AM](#) Mr. Yoder suggested they delete the language in red and do a minor change in D. 2, and Ms. Niblock said they would agree with that.

[10:32:47 AM](#) The staff was then asked to comment on what affect it would have if the length (of the street) shall be in accordance with the Street Standards.

Mr. Burbrink recalled one situation where they had an extremely long street end in a cul-de-sac. It was on a corner and they asked the builder to sever that and bring it in from two sides. The Board felt it was too long and that there might be some safety concerns. Mr. Doriot also recalled a situation where a variance for the length of the road was needed, but they decided that the traffic would work since it was large lots.

[10:33:26 AM](#) When Mrs. Wolgamood asked where the 1,000 ft. came from, Mr. Kolbus said he believes it was from the old ordinance.

[10:34:20 AM](#) Mr. Kanney explained that the Highway Department removed the standards from the Subdivision Ordinance and inserted them in the Street Standards, but now they have eliminated them from their new Street Standards. They did have a cul-de-sac length standard at one time and Ms. Niblock said they do not state a length anywhere in their standards.

[10:35:47 AM](#) Mrs. Wolgamood commented that the 1,000 ft. limit was always a safety issue of getting access in there and Mr. Kolbus agreed.

Mr. Yoder suggested that the first sentence of D. 2 read, “Where a street does not extend beyond the boundary of the Subdivision.” Also, “County construction standards” should be changed to “Street Standards” in the third sentence, and Ms. Niblock indicated they could eliminate “and specifications available from the County Engineer’s office” from the rest of the sentence. It was also suggested that the last sentence remain as is, but Mr. Kolbus pointed out that the Highway Department doesn’t want a 1,000 ft. limit.

[10:36:41 AM](#) When Mr. Yoder asked if they care whether it is 1,000, 2,000 or 500 ft., Mr. Kolbus said it’s just the length of the street, not the cul-de-sac designs so that should be up to the Plan Commission. Ms. Niblock then indicated that they have a detail on a cul-de-sac design.

[10:37:22 AM](#)

Mr. Doriot said someone is going to have to prove in a meeting that their cul-de-sac should be longer than 1,000 ft., at which time the Board may or may not adopt it. He said their plans are going to have to meet the Highway Department’s construction standards.

[10:37:44 AM](#) When asked about the language the Highway Department is recommending to be deleted in D. 1, Mr. Watkins indicated the staff supports that as well.

[10:38:04 AM](#) During further discussion, it was pointed out that the word “for” in the first sentence should be changed to “or”. The third sentence was also changed to read, “A cul-de-sac turnaround shall be in accordance with Street Standards”, and it was clarified that the red

highlighted portion of D. 1 from the Highway's suggestions was deleted.

[10:40:10 AM](#) Ms. Niblock said the only other issues is in Section 2.21 A. Easement Required. She suggested they add something that says the Street Standards shall apply for sidewalks adjacent to the roadway. She said sidewalks are allowed within the right-of-way in their Street Standards, and for minor streets, they have increased the 40 ft. right-of-way to 50 ft. for sidewalks. She said they want to make sure it is clear that this paragraph is not talking about those sidewalks.

[10:41:05 AM](#) Mr. Watkins suggested saying, "Where a sidewalk is adjacent to a street and/or in the right-of-way, Street Standards shall apply.

[10:42:31 AM](#) Copies of the definitions from the Highway Department's Street Standards were then distributed to the Board (*see attached*), and the public hearing was then opened for comments.

[10:43:14 AM](#) Jim Weeber, 57564 CR 115, Goshen, was present on behalf of the Elkhart County Farm Bureau and its membership. In Chapter 4, page 27, B. 8, he said it states that not more than two buildable tracts may be created by administrative subdivision from a parent tract after the effective date of this ordinance. He questioned how many acres are required to have a split and Mr. Yoder said it would depend on the underlying zoning.

Mr. Weeber said if someone with 10 or 20 acres is allowed two splits, it would seem that someone who has 100, 150 or 60 acres should be allowed more than two. It was brought to his attention that Michigan has a formula in deciding the number of splits you are allowed to have, and he believes it is one split for every 10 acres. He also understands that if you leave the property vacant, you even get bonus splits. He then asked the Board to consider looking at that in more depth.

[10:45:06 AM](#) Mr. Yoder explained that this does not limit the number of splits if you have the acreage; it only limits the number of administrative splits. You could do 20 splits if you wanted, but after the two administrative splits you would have to do a minor or major subdivision through the ordinance.

[10:45:37 AM](#) Mr. Weeber then asked the Board to define what a parent tract is. If an individual with 50 acres has two splits with 40 acres remaining that he sells, he asked if those historical splits carry through to the new owner. Mr. Kolbus said yes and explained that the parent tract, by definition, is "The tract of land lawfully in existence on the effective date of the ordinance from which a new tract of land is taken".[10:46:02 AM](#) For example, if you have 40 acres and you can do an administrative split of 10 acres, you have 30 acres left. If you sell those 30 acres, he said that acreage only has one administrative split left, and you would then have to go through a major or minor subdivision for additional splits beyond that one administrative split.

[10:46:46 AM](#) Mr. Weeber commented that you could conceivably buy 50 acres and be allowed no administrative splits without a plan and Mr. Kolbus said that is correct. Mr. Doriot then pointed out that the administrative subdivision is requiring a plan because there are now standards for a building lot, but Mr. Weeber said he is referring to a plan that ultimately costs a lot of money, which is what they will get to if they have already used their splits historically. If they have a piece of property and decide to build a house, he said they're going to have to spend a good amount of money in order to bring that to fruition.

[10:47:39 AM](#) If they develop a formula to determine the number of splits an individual may have according to his acreage, Mr. Weeber said they would relieve some of these

difficulties. Mr. Yoder said there is some logic to what he is proposing and initially they started out with the concept of some sort of formula. He's not sure why they backed away from that unless it was just a decision that this was simpler to administrate. Mr. Kolbus said they did look at Michigan's law as well.

Mr. Yoder wondered if it is appropriate to add more administrative splits or not, and he asked at what point the Board would want to bring in a higher level of planning. The farming community wanted the ability to sell some land in an emergency situation so he said they came up with the administrative split, which you could do twice. If they allow it to continue on, he wonders how much better they are from what they have now with the exemption that allows stripping off of the roads.

[10:49:52 AM](#) With this, Mr. Weeber said defining the two splits from a parent property regardless of the size is a greater encumbrance to someone who owns 100 acres than one who owns ten. Mr. Yoder agreed it is a greater encumbrance, but if a landowner is going to do six or seven splits, he said they would like to see a more comprehensive plan of that larger acreage.[10:51:00 AM](#) Mr. Burbrink also pointed out that they still have the option of doing a minor subdivision.

If they allow more splits on more acreage, Mr. Weeber said it does not allow an individual to do an unrestricted amount of lots. He said you would still have to go through the subdivision parameters to do that.[10:51:41 AM](#) If they would allow 10 splits on 100 acres, Mr. Yoder said it would allow the owner to create ten acre splits along the county highway through the administrative process and he doesn't think there would be much limitation.

Mr. Doriot felt the safe curb cut and drainage restrictions have probably been the biggest problems with the three-acre split. The administrative subdivision will require paperwork for the staff, but in St. Joe County, he said the owner's surveyor is required to bring in a split report that shows every split on the parcel and what it was used for; therefore, he doesn't feel the tracking is that difficult.

[10:53:30 AM](#) Mr. Yoder said the question is how many administrative splits they want to allow and he admitted that two is pretty confining. Mr. Weeber said he realizes there are things they need to do to keep planning orderly and in the best interest of the community, but he thinks the feelings of Farm Bureau is the less they encumber people's property, the better it is.

[10:54:11 AM](#) Mr. Sharkey pointed out that some 80-acre farms may have a quarter mile of road frontage and some may have a mile. He asked if that plays a roll in what could be split.

Mr. Weeber then suggested they find out what they're doing in Michigan and Mr. Holt noted there is someone in the audience who does a lot of planning in Michigan who could possibly address that.

[10:55:12 AM](#) Also present was Dave Thwait's, 14521 CR 50, Syracuse. If someone owns 16 ten-acre lots side by side verses a 160 acre existing tract, he said this rule is unfair to the individuals that participate in the administrative process. He urged the Board to consider some type of stair-stepping or leveraging for large parcels to allow more administrative splits. He thinks the size and design of each parcel as Mr. Sharkey stated have significant bearing on where administrative splits would make sense. To arbitrarily limit it to two per tract doesn't make sense to him at all.

When stair-stepping was questioned, Mr. Thwait's said he feels the restrictions they include in the administrative subdivision on the site drainage is good, but if it is on a good buildable lot that meets the highway, health and drainage standards, he asked why go further in

the restrictions. He suggested they make the standards such that they decide where they can and can't be built, not an arbitrary rule on how many. It appears to him that they are going at it backwards.

[10:57:10 AM](#) Mr. Yoder said they are not restricting the number of splits, just the way it can be done and he thinks there is a perception that this is going to be a major expenditure. If you have the ability to do ten administrative splits, he said they would rather have them think about it long-term. Maybe they need to build an interior road rather than having ten curb cuts on a highway, or maybe they want to create ten 3-acre lots or ten 4-acre lots. He said what they are trying to do is force more thoughtfulness on how those splits are made.

However, Mr. Thwaites felt they are working under those standards right now and he said there are many large tract operations that have not been split. He feels they would be taking away the rights of large tract landowners in favor of rights of somebody who did split their property, or sold their property when there weren't restrictions. He said there is a significant economic value differential between land after this rule and prior to the rule.

[10:58:59 AM](#) Jeff Chupp, 54560 CR 17, Elkhart, also addressed the Board. He said he has been involved with building in Michigan and he feels they have some safeguards involved. He explained that he has a client who bought three acres and now wants to buy the adjoining three acres to add to his parcel. He asked if that would count as the first administrative split or just be an addition to one that has been done in the past.

[10:59:53 AM](#) By definition in the ordinance, Mr. Kolbus said that is not a subdivision, it is a division of land off the one tract for sale or exchange between two adjoining landowners to combine land. He said no additional building sites are being created so that is not a subdivision and does not count as a split.

If he wanted to sell those three acres to someone in the future, Mr. Chupp asked if he would have a parent parcel at that point. Mr. Kolbus said the parent parcel would be what was in effect at the date of the ordinance. If they were each ten-acre parcels, he would have two 10-acre parent parcels that he could do four administrative subdivisions off. It was then pointed out that Mr. Kolbus is referring to item C of the definition of SUBDIVISION on page 39.

[11:01:48 AM](#) Another exemption, Mr. Kolbus said, is for agricultural use only. He said this kicks in when you want to put a residential, commercial or industrial building up. He said it doesn't apply to a farm building or just to add more property.

If they did it for agricultural purposes, Mr. Chupp said they would just have to request a building permit. At that time, Mr. Kolbus said they would have to show the history of the property and it may or may not comply with the split.

[11:01:58 AM](#) If there is an administrative split two months after the adoption of the subdivision ordinance, Mr. Chupp asked how the new owner is made aware of the fact that he has no splits. Mr. Doriot said the owner must do his due diligence and research his property. Based on Mr. Yoder's conversation with the County Auditor, he said it should be fairly easy to track splits with their computer system.

Mr. Chupp said they actually have the number of splits granted recorded right on the deed in Michigan if it's over a certain number of acres. He feels it will create a problem in Elkhart County when people come in thinking they have that.

[11:03:08 AM](#) Mr. Kolbus explained that the Michigan law in this area is a statewide law that sets it for everybody and it is not done locally within each jurisdiction of the government.

Michigan can require it on the deed because they are the law for the entire land, but with the law in Indiana, he said each jurisdiction could do it differently.

[11:04:00 AM](#) Next to address the Board was Chris Marbach of Marbach, Brady & Weaver, 3220 Southview Drive, Elkhart. He said the AGRICULTURAL STATEMENT on page 8, Section 1.15 is fine, but if you approve a subdivision next to manufacturing, he feels there should be an equivalent statement notifying those residents they are next to manufacturing and several board members agreed.

[11:05:04 AM](#) Mr. Marbach said Section 2.10 G. and Section 2.11 3 (pages 13 and 14) both deal with the acceptance of the sewer and water systems in subdivisions and he feels they could both be worded exactly the same. As he reads it, a building permit will not be issued on any lot in that subdivision until the sewer and water is built, constructed, inspected, tested, and approved by the utility company, even though the road has been bonded from the Highway Department. He said this really cannot happen a lot of times until after the road is completely built because they won't approve the manholes until they're seated in the asphalt. What happens is that you can't start that home, which takes three or four months to build, until everything is completely done. Therefore, he suggested they restrict that to the occupancy permit not being issued until all of those things are done verses the building permit. That would allow some of the homes to be started at the time the improvements are going in and they would be finished simultaneously with the completion of the other improvements.

[11:07:00 AM](#) When the staff was asked to comment on the point raised by Mr. Marbach, Mr. Kanney said it's not anyone's intention to require the thorough and complete construction and acceptance of the sewer facilities. Mr. Kolbus then noted that one section says after construction and the other doesn't so the language is not consistent.

[11:08:16 AM](#) According to Mr. Kanney, they were looking for verification from the utility companies that everything was in place for those to be constructed, which Mr. Marbach said he agreed with 100 percent. Too often, Mr. Kanney said these subdivisions are going to have city sewer and then they find out later on, after it was approved that way, that they don't have city sewer and they can't get it.

[11:08:55 AM](#) Mr. Kolbus then referred to Section 2.10 D. on page 13, which says a letter of intent must be provided from the utility. If they change Sections 2.10 G. and 2.11 3, he asked if that goes far enough because it looks like they're looking for something in between the Letter of Intent and the Letter of Acceptance. Mr. Kanney said these will be the issues of the Health Department at the building permit point of issuance. They will dictate when they will sign-off on the permit and what they need to have, and he is only interested in having a Letter of Intent before primary approval.

[11:09:53 AM](#) Mr. Yoder asked if it would solve all of these issues if they change the word "acceptance" to "Letter of Verification" (2.11 3), but it was pointed out that "after construction" would have to be removed.[11:10:06 AM](#) If they take "after construction" out, Mr. Watkins said it would be very similar to Section 2.10 G.

From a city municipal standpoint, Mr. Marbach said the term "acceptance" generally means that they've acknowledged receipt of the completed constructed improvements. A Letter of Acceptance to them may mean something different than what the staff would like it to be.

When the staff was asked if a "Letter of Intent" would work, Mr. Kanney said probably. He explained that every town seems to be different, but Mr. Marbach pointed out that everyone

needs an IDEM permit to put in sewer and water over 400 ft. long. Mr. Kanney said he doesn't know if Bristol considers their system in place until all of the houses are hooked up, and all the staff is looking for is a commitment from the town that the project will be done and bonds are in place.

[11:12:16 AM](#) "Letter of Commitment" was then suggested by Mr. Kolbus who said that letter will vary from jurisdiction to jurisdiction.

[11:12:53 AM](#) When asked what they bring in now when they have a subdivision on sewer, Mr. Marbach said it is usually just a letter from the authority that acknowledges that they will allow it to be extended to the new project, but that doesn't mean the plans are done and approved yet.

[11:13:18 AM](#) Mr. Sharkey said you have to have a commitment and not just an intent so he would prefer the word "commitment" rather than "intent". Mr. Kanney agreed because he wants to know that the developer is committed to putting the sewer in and that the town is committed to allowing it to be put in.

[11:13:46 AM](#) It was then clarified that on page 14, Section 2.11 3, the Board agrees that "after construction and" should be removed.[11:14:18 AM](#) When a suggestion was made to change "acceptance" to "commitment", Mr. Kanney preferred "commitment".

[11:14:49 AM](#) Mr. Kolbus said it is something that will vary from jurisdiction to jurisdiction as to what each one requires up front, so he thinks that gives the staff the ability to work with it. If you spell out exactly what you want, one jurisdiction may not have all of those requirements.

[11:15:04 AM](#) Another suggestion was made by Mr. Doriot to say "documentation shall be presented that assures municipal services will be extended to this site".

Mr. Kanney asked what the Health Department requires now and Mr. Watkins said a letter from the utility saying it is acceptable for them to use the sewer. Mr. Kolbus guessed that that is where the word "acceptance" came from as the utility agreed that what they are proposing is acceptable to the city or other municipality.

[11:15:46 AM](#) Mr. Kanney pointed out that these two statements refer to building permits and not subdivision so he's not sure they are even appropriate. He said verification of the connection is going to be the duty of the Health Department, not Planning. Mr. Kolbus said the statements could actually come out of the ordinance and Mr. Kanney agreed. He said they may add to the overall flow of things, but it really doesn't add anything to the subdivision process.

Mrs. Wolgamood asked if they're just talking about the acceptance portion under the water facilities and Mr. Kanney said yes. The information is important on the front end, but he said they're referring to building permits, which is completely after everything is done.

[11:18:04 AM](#) Sections 2.10 G. and 2.11 A. 3 were then deleted from the ordinance.

[11:18:43 AM](#) Mr. Marbach then referred to Section 2.21 A. on page 16. This section is clarification for the pedestrian paths and he said it should follow the street standards when it's along the road. If it's going between lots, he said 12 ft. should be okay and he doesn't disagree with that since it has been modified this morning.

He then suggested they stay away from the term "easements" or "right-of-ways" on those stub streets that are not dedicated. He explained that if you do something there as an easement and someone next door wants to plat that right-of-way out to the road, the fee owners underneath those easements become signators on the plat, which then creates problem of getting them to

agree to sign the plat. He suggested they keep it as a dedicated right-of-way and not as an easement. If they don't want to sign, he said it is then eminent domain to get that right-of-way back and Mr. Doriot agreed.

[11:20:48 AM](#) If you require an easement, Mr. Kanney said you are really not allowing for anything to go forward. The landowner then has to negotiate with private property owners so an easement doesn't do anything. If they want a stub, he said they need to make it a dedicated right-of-way on the plat. That way, he said they can require setbacks for the houses.

[11:21:33 AM](#) The language in D. 2 (Section 2.05) from the Highway Department was again reviewed. Mr. Kanney explained that they can use the word "easement" for drainage and pedestrian ways. Mr. Kolbus noted that it doesn't say "easement" anywhere else so the language they have is appropriate and the Board agreed.

Mr. Doriot said he was looking at the fact that there needs to be a stub street or right-of-way to the next parcel and developer "A" automatically develops developer "B's" property because he was told to put a stub street in and to build it. He said developer "A" has paved it to the neighbor and he didn't need it to get to the neighbor. What happens is that the first developer will plat everything but those two lots.

[11:23:23 AM](#) Mr. Marbach recalled that you can have a 150 ft. stub street going to the property line, but he thinks the street standards only allow them to just build that turn-out for that stub street and then continue past it. He said you don't have to build the entire stub road to meet their standards, but the right-of-way is dedicated and it's there. If the next person wants it, then he builds it. When Mrs. Wolgamood asked if that is in place now, Mr. Marbach said the new street standards

were adopted a few weeks ago. Since they now reference the street standards, Mr. Kolbus said they will be okay.

[11:24:17 AM](#) With regards to the definition of a parcel, Mr. Marbach said it just says in ownership and he asked if that means a tax ID number. For example, he said he could own four 10-acre pieces of property together with four different tax numbers next to each other. He asked if the parent parcel is the one 10-acre tax number, or if it's his four 10-acres that total 40 acres together. Mr. Doriot said a legal parcel to build on is a tax ID parcel, but Mr. Kanney said a parent parcel would be a recorded deed. If there is one deed with five descriptions on it, he said that is one piece, but both Mr. Doriot and Mr. Marbach disagreed.

The definitions of a "Parent Tract" and "Tract" were then reviewed.[11:31:52 AM](#) During a lengthy discussion on how property is mapped, Mr. Kolbus said they define "Parcel" as land being used and developed as a unit under single and separate ownership. If someone has one deed with five 80-acre tracts that are being used and developed separately because they are not contiguous, it's his opinion that he has five parent parcels as compared to five legal descriptions as one big parcel being operated as a farm. You have to look at each situation on its own because he said they are not all going to be the same, and he feels it can be worked out in practice based on the definitions they have.

[11:34:12 AM](#) Several board members indicated that they were confused about where they are at with the definition of a parcel and what can be an administrative subdivision. Mr. Kolbus was then asked to describe how he feels the definitions read. If Mr. Yoder has a deed that describes three parcels that are not contiguous, Mr. Kolbus said he has three parent parcels because they're being used and developed separately.

[11:34:50 AM](#) Mr. Doriot gave a scenario of farming 80 acres on the north side of CR 40 and 80 acres on the south side that are described separately on one deed. The acreage is contiguous, but he said there is a county right-of-way between them. When asked if that is one farm, Mr. Kolbus said if they're separated by the county road, he feels they have two parent parcels.

Mr. Sharkey said he felt a parcel was what you pay taxes on, but Mr. Kolbus said that may not be true. If it crosses a taxing district you will have two tax numbers, but its one parcel. He thinks the definitions allow the staff, with some assistance, to make that determination.

Mr. Warner asked if it's clear enough to the public that they can define it without assistance, but Mr. Kolbus didn't know. They can come in and ask if they can develop their property and he said it may have to be explained to them.

Mr. Yoder wondered if there is some additional language they can include in the definition that clarifies this type of a situation, [11:37:20 AM](#) but Mr. Kolbus didn't feel they could come up with the wording today.

Mr. Doriot said he too was under the impression it was a tax parcel and Mr. Kolbus said they can define it that way if they want, but he doesn't think that is the real purpose of it. He also doesn't feel a deed should be controlling because you have non-contiguous parcels or two deeds for the same contiguous parcel being used and developed as one.

If they had a deed that had non-contiguous parcels, Mr. Yoder said the intent was that they were expecting to have an administrative split for each of those separate non-contiguous parcels, but Mr. Kolbus said he didn't think contiguity had anything to do with it. When asked why that hasn't caused them problems in the past, Mr. Doriot said they have never limited the number of splits.

If you had two 80-acre parcels side by side, Mr. Sharkey asked if you would only be allowed two splits on 160 acres. According to the definitions, Mr. Marbach said two because it's a contiguous use on the same side of the road that's being used as one parcel.

[11:41:06 AM](#) Mr. Yoder then asked how you define "use" and Mr. Kolbus clarified that that is not in the subdivision ordinance, it's in the zoning ordinance.

[11:41:29 AM](#) If you do two administrative splits on 80 acres that is vacant and the parent parcel is left behind it, Mr. Marbach asked if they are saying that the owner will have to do a minor subdivision if he wants to build a home on the remaining parent parcel. Mr. Doriot replied yes, which he said he disagrees with. Mr. Marbach said he's not sure that parent parcel is excluded from getting that one building permit for the remainder of the property and he asked if that remainder can't have one building permit as well.

[11:43:36 AM](#) Mr. Watkins said this is about planning and not about reacting so if the plan is to build a house there, you sell one parcel and do an administrative subdivision on the second. If the objective is to sell land, he said you go through a subdivision to build a house on what is left.

[11:44:20 AM](#) Mr. Doriot wondered if they should look at density for the administrative splits, which was referred to as stair-stepping by Mr. Thwaites. For example, if he has 100 acres, he would be allowed ten houses; 40 acres would allow two; 60 acres would allow three; 80 acres would allow four; 160 acres would allow eight. He sees how Mr. Kolbus is interpreting it, but he said it's not written.

[11:46:38 AM](#) Mr. Yoder said he thinks there is a perception that going from an

administrative subdivision to a minor subdivision is a huge financial expense. He indicated that it will take 30 days for an administrative subdivision and 90 days for a minor subdivision. Mr. Marbach said that is accurate depending on the lead time for the surveyor or engineer to get it done. When the cost of a minor subdivision was questioned, Mr. Marbach said \$2,000 to \$2,500 depending on the soil borings, access, etc.

[11:48:37 AM](#) If you allow more splits per parent or per number of acres, it was Mr. Warner's feeling that all you are doing is allowing more unplanned development and the loss of farm land. In most instances, he said a family wanting to add on a couple of additional building sites would be entirely enough. If the intent is a development in the end, he said it should logically go through the major subdivision process.

[11:49:24 AM](#) In her opinion, Mrs. Wolgamood said the changing of the Subdivision Control Ordinance came about because they had all of the three acres that are out there that were either vacant or wanted to be constructed upon, etc. She recalled that one of the first things they discussed was to eliminate all splits unless you go through a minor or a major subdivision. Then they created the administrative subdivision, and she explained the reason behind that was because that's basically what they are currently doing. She said nothing is reviewed in planning and Mr. Doriot added that there is also no drainage review. Mrs. Wolgamood said they wanted some way to oversee the divisions of these properties. She understands the comments about the definitions and feels they could probably be tweaked, but in her opinion, the other alternative is either a major or a minor subdivision.

[11:51:54 AM](#) In the original meetings, Mr. Doriot also recalled that the number of splits was discussed and the administrative subdivision came about in a meeting by a significant group of large tract property holders that this affects. Almost everyone there agreed there have been parcels split off that shouldn't have been, and he said the majority of property owners out in the rural areas thought it was the amount of ground rented for agricultural purposes and not owned. They discussed ways to protect the general public that moved out into the rural area and left the property owner feeling he still had the rights he was given when he purchased that property, and also giving the county some oversight as to what happens. Mr. Yoder added that it was a compromise they worked out to losing the three-acre exemption.

[11:55:59 AM](#) In the public meetings in July, Mr. Thwait's said it was unclear and most thought it was an unlimited number of splits. In the first public meeting, Mr. Burbrink recalled that the discussion ended with the feeling that if you don't have a limit on splits, we are not any better off than we currently are with the three-acres. However, Mr. Thwait's felt they could get there with an arbitrary number, and if they're going to use a number, he suggested they hold more meetings with the public.

[11:57:43 AM](#) Mr. Yoder said it would be tempting to throw-out the administrative subdivision at this point, but he feels they can work through the issues they've discussed today. He then explained that the three-acre exemption caused development to occur around the roads and they were left with a large piece of property in the middle. He said that is a huge waste of land and resources, and it has created a huge amount of extra expense for the county taxpayers. No one in the county is going to take away a farmer's right to develop his land, but he said he needs to do a better job planning that and that's the reason they're trying to force them through a subdivision control ordinance.

[12:00:58 PM](#) From a draft from the public meetings in June, Mr. Burbrink said statement B. 1 for an administrative subdivision said only one new building site at least three

acres in size be created so they were only suggesting one. However, Mr. Thwait's said there was a verbal comment that said unlimited and then someone stated two.

In the first meeting where this came up, Mr. Watkins said they took a vote from the people in attendance and there were six in favor of zero or limiting it to one, and six to consider more so the two splits actually became a compromise.[12:02:22 PM](#) Mr. Marbach then commented that he was not trying to eliminate the administrative subdivision, he just wanted clarification of the definition.

[12:02:37 PM](#) A motion was made and seconded (*Sharkey/Holt*) that the public hearing be closed and the motion was carried with a unanimous vote.[12:04:44 PM](#)

[12:06:08 PM](#) During discussion, Mr. Doriot said they need to add "aliquot part" for metes and bounds tracts in Section 1.04 B.

[12:07:22 PM](#) Issues addressed by the Board during their discussion included inconsistencies in the definitions; the need for manufacturing, residential and commercial statements similar to the agricultural statement; the need for the administrative subdivision in the ordinance with a limit on the number of splits; and the ability to build on residual parcels.[12:13:02 PM](#) [12:16:01 PM](#)

[12:17:04 PM](#) The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Sharkey*) that the Advisory Plan Commission table the replacement Subdivision Control Ordinance until the October 9, 2008, Plan Commission meeting to receive the following information:

1. A decision on the number of administrative splits.
2. Additional statements of potential zoning conflicts.
3. Definitions of a parcel, parent tract, tract, and land unit.
4. The residual parcel issue included in the number of administrative splits.

[12:22:28 PM](#) Prior to voting on the motion, it was clarified that the discussion at next month's meeting would be limited to the four issues addressed in the motion. It was also Mr. Kolbus' opinion that the information needed to be obtained from the public or the staff for the Board to make a decision and that formally scheduling additional discussion was not necessary. However, he did say they could discuss the information they come up with at the next workshop.

[12:23:48 PM](#) Mr. Watkins requested that they also include the proposed changes from the Planning staff and Highway Department.

Mr. Doriot then amended his motion to include the approval of the changes to the draft of the Subdivision Control Ordinance presented by the Planning staff and Elkhart County Highway/Engineering Department and Mr. Sharkey seconded the amended motion.[12:24:39 PM](#) However, after a brief discussion, Mr. Doriot withdrew the amendment and Mr. Sharkey withdrew his second.

[12:24:51 PM](#) Mr. Yoder then moved to approve the changes to the draft of the Subdivision Control Ordinance presented by the Planning staff and the Elkhart County Highway/Engineering Department. Mr. Holt seconded the motion, which carried with a unanimous roll call vote.

[12:26:05 PM](#) Mr. Doriot amended the original motion to table the draft of the Subdivision Control Ordinance, as amended, to the October 9, 2008, Plan Commission meeting for further information and discussion on the four points outlined in the original motion. Mr. Sharkey seconded the amendment and the motion was carried with a unanimous vote.

[12:26:28 PM](#) A roll call vote was then taken on Mr. Doriot's motion as amended and the

motion was carried unanimously.

10. There were no audience items.

11. See page 4, item #8 for the *Amendment to the Comprehensive Plan for the Northwest Gateway area*.

12. See page 2, item #6 for the staff item for *Lena Realty County Road 6 PUD*.

13. See page 2, item #7 for the staff item for *Crossroads Community Church*
[12:27:55 PM](#)

14. The meeting was adjourned at 12:35 p.m.

Respectfully submitted.

Kathleen L. Wilson, Recording Secretary

Jeff Burbrink, Chairman