

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 11TH DAY OF AUGUST 2011 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, Mike Yoder, with the following members present: Dennis Sharkey, Steve Warner, Blake Doriot, Meg Wolgamood, and Roger Miller. Staff members present were: Chris Godlewski, 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/Sharkey*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 14th day of July 2011, be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Sharkey/Wolgamood*) that the legal advertisements, having been published on the 30th day of July 2011 in the Goshen News and the 31st day of July 2011 in the Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Miller/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 application for an amendment to an existing Detailed Planned Unit Development known as **R & S LAND MANAGEMENT DPUD**, for Mitchell & Tracy Lynn DeWitt represented by Brads-Ko Engineering & Surveying, on property located 2,000 ft. North off of Old US 33, 2,600 ft. West of CR 3 in Baugo Township, zoned DPUD-M-1, was presented at this time.

At this time, Mr. Nemeth submitted a letter from Mitch DeWitt requesting to with his application [*attached to file as Staff Exhibit #1*] due to problems incurred trying to construct a pole building on the property. The letter indicates that the petitioners have decided to purchase another property to build on.

A motion was made and seconded (*Wolgamood/Miller*) that the Advisory Plan Commission accepts the withdrawal of this request and the motion was carried with a unanimous roll call vote.

6. The application for an amendment to an existing Detailed Planned Unit Development known as **PLEASANT HAVEN DPUD**, for Pleasant Haven, Inc. represented by Brads-Ko Engineering & Surveying, on property located on the East side of SR 15, 283 ft. North of Sandy Drive in Elkhart Township, zoned DPUD-R-4, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #61236SR 15-110705-1*.

Present on behalf of this request was Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th St, Goshen. After displaying a site plan, he noted that both Lavern and Stan Yoder are also present to answer any questions he cannot address.

Mr. Pharis explained that he represented Pleasant Haven in 2004 when they created this long-term residential mental health facility for Amish patients. He clarified that this request today is only asking for the ability to construct a building they will be able to use in inclement weather for exercise, gatherings, hobbies, and vocational rehabilitation. In 2004, they received significant remonstrance from the neighbors to the south; therefore, he said he sent letters to 38 homeowners within 400 ft. of the subject property to advise them of what they are now planning to do. Mr. Pharis said this property is meticulously maintained and they have had no issues over the last seven years with neighbors or problems with the police. This facility is under the umbrella of Oaklawn where he said the residents receive their counseling and psychiatric care.

Mr. Miller questioned the design of the proposed building. Mr. Pharis explained that there will be a bathroom and sink area at one end, with the rest of the building being wide open for exercise equipment, tables and seating. All of the exercise equipment is currently being stored in the main building, which gets crowded on a snow day when there are 15 patients and staff there. He said construction of this proposed building would give them space to spread out.

Mr. Pharis was then asked to point out the location of the proposed building on the aerial photo. He said it will be shielded from the south by their existing facility, and an existing pole building that is not on a foundation will be moved a little to the east to allow for the new structure.

When Mrs. Wolgamood questioned the use of that existing pole building, Mr. Pharis said their patients will continue to use it and the barn to care for chickens and small animals, which they have approval for.

Present in opposition to this request was Mark Green, 19126 Sandy Dr., Goshen, who said he is speaking on behalf of the neighbors on Sandy Drive. When this facility was first proposed, he said they were very much opposed to it. They came to the public hearing, had signatures from almost all of the neighbors, and they followed everything they thought they were supposed to do, but the facility was built anyway. They were upset, but he said they moved on.

According to Mr. Green, it took 18 months for the privacy fence to be installed, which the neighbors requested and the petitioner agreed to. This was after many requests by the occupant who was building the facility, by Oaklawn itself, and by the company Mr. Pharis represents. He said they had to go to their State Representative for it to actually get built.

One negative affect Mr. Green pointed out is the farm smell by the barn, which was not there prior to the construction of the facility. In addition, charter buses drive up that driveway on Sunday morning, which creates noise for the adjoining property owners. He also expressed a concern for the safety of the Amish walking on and across SR 15 as there is no sidewalk. There has been no upkeep on the fence and he indicated he had photos showing areas where the fence has come apart; however, those photos were on a camera and not printed. Mr. Kolbus advised that they can only keep what's presented in evidence and the photos cannot be shown on the camera screen because it's a public hearing.

In September 2004, Mr. Green said many questions were asked when this facility was going to be built. They wanted to know who would be living there, if they would have a phone for 911, and if their property values would decrease. One of the most important questions of the neighbors was how they will know that nothing more will be built on this site and they were told at that time that a building, barn and possibly a pole barn would be constructed. He said that concern still exists for the neighbors on Sandy Drive.

Mr. Green was then asked to point out the location of his home, which is located on the south side of Sandy Drive.

In rebuttal, Mr. Pharis said he did not receive one response to his letter from any of the neighboring property owners. If there had been any questions, he would have been prepared to address them. In the nearly 20 years he's been coming before this Board, he said if asked if there will be other buildings, he would always answer that they have no plans for other buildings. However, if other buildings are to be presented, he would tell them it must come back to the Plan Commission for approval. Seven years later they are back for one additional building, but no additional people. He reiterated that there have been no complaints to the staff or police in seven years regarding any patient or activity. They're just trying to maintain an area large enough for their patients to have exercise and rehabilitation in inclement weather. The barn was constructed long before this structure was proposed, and they only have small animals that are limited in number by the ordinance.

Mrs. Wolgamood asked how many animals they were limited to and Mr. Burrow replied 20 small animals. Mr. Pharis was then asked how many animals they currently have. He said there are 24 chickens and no other type of animals.

When asked to address the fence, Stan Yoder, the accounts manager at Pleasant Haven, said they did install a fence, but he's not sure what date that occurred. He explained that they also planted some evergreens behind the fence, which he thinks was also originally requested. He then indicated that some of those evergreens are already higher than the fence. He was not aware there was a problem with the fence, but he said that is something they will definitely address. According to Mr. Yoder, any issues that have come up have been very minor and they have tried to address them over the years.

Mr. Miller questioned the type of privacy fence they installed. Mr. Yoder said it is an upright board fence with every other board offset. Air can flow through, but he said it does give you privacy.

For clarification, Mr. Sharkey said this proposed building will not add to the capacity of the facility. Mr. Yoder said no, that it is strictly for an exercise area during inclement weather and to get the patients out of the house.

The charter bus mentioned by Mr. Green was then questioned by Mrs. Wolgamood. Mr. Yoder said there are friends and relatives who come from a distance by way of a charter bus to visit on Sunday. Local friends and family will drive to the facility. Visiting hours were then questioned by Mr. Doriot and Mr. Yoder said approximately 8:30 a.m. to 2:00 p.m.

When originally approved in 2004, Mr. Sharkey wondered if they told the neighbors there would be no more buildings. He did point out, however, that they are now coming back to the Board as Mr. Pharis indicated he would have told them at that time.

Mr. Doriot clarified that this new building will only be used by residents and staff so it will not increase the capacity or traffic to the site. Mr. Yoder said that is correct.

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

Mr. Doriot questioned if the original ordinance restricted visitor buses and Mr. Burrow said no. Mr. Miller recalled a concern about a lot of buggy traffic causing issues on the road and discussion about bringing in buses in lieu of the traffic, which he feels is a better situation.

Mr. Miller asked how they communicate with this facility when they have concerns. When there were concerns about the fence, Mr. Green said they would talk with the occupant of the house in front of the property on SR 15. When asked if no one is living in the house now, Stan Yoder clarified from the audience that the residence is a guest house.

Mr. Miller then suggested that Mr. Green be established as the liaison between this facility and the neighborhood. Mr. Green had no objection to that, but he said whenever they have had a problem it was never addressed.

Mrs. Wolgamood asked if they contacted Code Enforcement regarding the fence. Mr. Green said they contacted all the people they could, including the county commissioners and Oaklawn, but no one seemed to have the answers or want to do anything so they then contacted their State Representative.

Mr. Doriot felt that Pleasant Haven needs to get contact information to the neighbors and Mr. Pharis interjected that there is a 24-hour phone operator at this facility seven days a week. Mr. Pharis then asked that the phone number be entered into record, which is 574-535-0550. Mr. Green was also advised that his next contact would be the Zoning Administrator, Ann Prough, and then the county commissioners.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Wolgamood*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request be approved in accordance with the Staff Analysis with the condition that the fence be repaired prior to the issuance of a building permit for the proposed structure. A roll call vote was taken and the motion was carried unanimously.

7. Chris Godlewski, who is attending his first meeting as the Plan Director, was welcomed at this time. It was reported that Mr. Godlewski would meet with the Executive Committee at the end of the month, and at that point, they would be determining some specific goals for the future. Reviews by the Executive Committee would then be done at three and six months.

8. The application for an amendment to an existing Detailed Planned Unit Development Site Plan / Support Drawing known as **A PLUS STORAGE DPUD**, for Iron Gate I, LLC on property located on the East side of CR 9, 1,500 ft. South of CR 4 in Osolo Township, zoned DPUD-A-1, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #52292CR 9-110630-1*. He then clarified that each storage unit will be transferred to separate ownership.

Mrs. Wolgamood noted that the site plan shows future areas and she wondered if they would be approving those future areas today. Mr. Burrow explained that the Board is looking at the original planned unit development with a phasing, which shows what presently exists and what will be installed in the future. When Mrs. Wolgamood asked if this has already been approved, Mr. Burrow said yes and that the only thing that has not been approved is the selling of a building to separate ownership, the septic system, and operating businesses within the building. The type of those businesses was then questioned and Mr. Burrow said they're talking about portions of the building being used for business storage.

Present on behalf of this request was Amy Smith, property manager for Iron Gate I, LLC, 52292 CR 9, Elkhart. She explained that the buildings they are requesting septic for are simply to install a toilet and hand sink. The only company operating there is a landscaping business, and they only store equipment. She said it's not used for any type of public traffic. The facility is completely gated and secured, and she indicated that you need a private access code to enter the facility.

Ms. Smith pointed out the location of the outside storage area on the aerial photo where she said they have permission for a future building. Due to other ordinances, she said they were notified

by the community that they are not allowed to store vehicles such as motor-homes, large travel trailers or extra cars/trucks at their properties so they store their vehicles securely at this facility so they are not violating any ordinances otherwise.

According to Ms. Smith, the only building with climate control on the property is the building to the north. There are no plans to put climate control on any of the remaining buildings. When Mr. Miller asked why they need climate control to store landscaping equipment, she assumed it was to keep some of the products that are stored there from freezing.

Ms. Smith went on to explain that there are six individual owners in this facility and each will apply for their own permits for their toilets.

Mr. Miller expressed a concern that these will turn into small office buildings. Ms. Smith said they are not allowed to have a business that would generate additional traffic because the gate is not secure and they do not allow people who are not customers to enter into the facility. When asked if the traffic she is referring to is daily traffic in and out, she said there is already daily traffic in and out due to the nature of this business. This is a self-storage facility so she said anyone can come 24-hours a day.

For clarification, Mr. Doriot asked if there are employees are coming in daily and Ms. Smith said there is only one person coming daily.

With regard to climate control for storage, Mr. Doriot said the constant change of temperature and humidity causes deterioration of older documents. Mr. Miller commented, however, that you would only access stored documents once every two months and this is daily traffic for a business that will be operating there. Mr. Sharkey then added that if you have a restroom, it has to be climate controlled or it will freeze and Mr. Doriot agreed.

Mr. Doriot questioned if a large motor home can fit in the building and Ms. Smith replied yes. He then referred to the building as a "rich man's toy shed" where he brings in his motor home so he doesn't have to winterize it, which is different than running a landscaping business.

Mr. Yoder asked if they've addressed their concern about a business being operated out of this rental facility. Mr. Doriot asked if they are going to own it, and it was reiterated that it would be owned by six individuals.

There were no remonstrators present.

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

During discussion, Mr. Miller commented that a landscaping company is a public business activity so it seems they are being asked to approve storage for a business that will be operated in the building.

Mr. Doriot asked if the landscaper has another office location and Ms. Smith replied no.

Mr. Burrow explained that here are five notes at the bottom of the site plan / support drawing. After reviewing notes #2 and #4 with the Board, he said they're requesting that the items listed be a permitted use on this property, and they would expect that trucks/vehicles of the businesses would be allowed to be stored in the building. In addition, he said they would be allowed to conduct storage of business materials inside the building. In addressing Mr. Miller's concern, Mr. Burrow said it is operating a business under the ordinance and that's why it is in front of the Board.

Mr. Miller pointed out that the comments say they are adding outside storage, but not a business. He feels they are turning this storage facility into a business facility, but Mr. Burrow said a site plan / support drawing establishes the developmental characteristics of this site.

Mr. Yoder was not sure he agreed because the comments say it will be for a non-public business activity; however, Mr. Doriot said that means the owner is not going to give his access code out to everyone to drive in and do some type of business here. Mr. Burrow clarified it would be associated with the employees and their access to the vehicles in storage of the business.

Mr. Kolbus agreed that it does cross into a business activity, but he said the staff feels it is a passive activity rather than active so they are recommending approval.

Mr. Sharkey commented that the intent is just for the employees to come in. Mr. Yoder felt this is a better location than operating the business out of his home and parking his vehicle in his driveway every night.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Warner/Doriot*) 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 then carried with Mr. Miller voting in opposition.

9. The application for a zone map change from R-2 to B-3 for *Elena Moreira*, on property located on the Northeast corner of CR 20 (Mishawaka Road) and Paul Street in Baugo Township, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #28295CR 20-110404-1*. A note from Mary Harrison in opposition to this request was then submitted to the Board [*attached to file as Staff Exhibit #1*]. Mr. Nemeth then advised that Ms. Moreira is also present to address any further questions.

Mr. Doriot wondered if the person who was sent a letter and some of the other neighbors are blurring the maintenance of the junkyard to the north with the subject property. Mr. Nemeth said it is possible they are looking at this all as one business, but there is a fence that contains the junkyard so they are separate properties.

Mr. Doriot moved to reopen the public hearing at this time to allow for additional comments from the petitioner. Mrs. Wolgamood seconded the motion, which then carried with a unanimous vote.

Elena Moreira, the owner of the subject property, asked if the staff would be favorable to rezone this property to a DPUD so she could have both uses; the back for storage of vehicles and the house for a rental.

When asked if she talked with the staff about this, she said no. However, Mr. Nemeth explained that he advised Ms. Moreira of her options a few months ago and she has chosen to go through the Use Variance route. He said he also advised her that a PUD would be something that could be established through the Plan Commission and County Commissioners, but he warned her that a PUD is very expensive. He thinks she is asking if the Plan Commission would be favorable of allowing both uses before she makes that investment.

When Mr. Doriot asked if they can now do a conditional rezoning, Mr. Kolbus said they can with restrictions. However, allowing a residential use in a B-3 is an addition so he said the commitment doesn't help them in this situation. Where commitments work, he explained, is where you have a B-3 and you say you are not going to use seven of the 15 uses. He said you can't add to it, you can only restrict the uses. He then recalled that the Board of Zoning Appeals' concern was also with two uses on one zoning lot.

Mr. Miller commented that one of the things you can't eliminate is renting a house and Mr. Kolbus said that is correct because it's not permitted in a B-3 anyway.

The problem Mr. Doriot sees with a PUD is that she will have to get a variance from the Highway Department because they want at least 50 ft. of right-of-way dedicated. However, Mr. Burrow said the Plan Commission has the authority to waive street standards.

In addition to the dual use of the property, Mr. Yoder noted the vehicle parking setback was also a concern.

Mr. Sharkey said a DPUD will not help you keep the residence and business together, but Mr. Nemeth explained that the PUD establishes land use and dimensional setbacks. The Plan Commission would basically be approving the setbacks from the property line and they could use the house as a residence through the DPUD process.

There were no remonstrators present.

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

Mrs. Wolgamood pointed out that the petitioner has been to both the Plan Commission and Board of Zoning Appeals and she still wants both uses (residence and outside storage of vehicles) on the property. She feels those two uses are extremely incompatible, whether it be looked at as a DPUD or a Use Variance, so she cannot support both uses on this property. It's her opinion that the petitioner needs to decide whether she wants the residence or the business there.

Because the Board cannot give the petitioner a commitment on a PUD, Mr. Sharkey doesn't want to see her go through the expense and time of a PUD and then be denied.

During discussion about the number of vehicles on the subject property, Mrs. Wolgamood said every time she has driven by this property there have been vehicles parked along the north and west sides, and they were working on vehicles outside one of those times. She then recalled that Ms. Moreira had indicated during one of the public hearings that the majority of the vehicles on the property to the north in the M-1 zone are inoperable and are basically there for parts. Ms. Moreira had also indicated that the vehicles (parked in the center of the parcel in question on the aerial photo) were gone. Mrs. Wolgamood doesn't disagree she needs additional space for what they are doing in the M-1 zone. She said you can park vehicles in a B-3 zone, and she would support the staff's recommendation for approval, which means there would be no residence.

Mr. Doriot asked if there are vehicles parked on the property where the shop is located. Ms. Moreira said they do not have any vehicles on their property for parts, they are all waiting to be repaired. They do not work on cars outside in the front, and she said they do not park any vehicles on the CR 20 address whatsoever. According to the petitioner, they were told they were allowed to have at least three working vehicles in the back yard, which complies with any residential lot.

Mr. Yoder then clarified that the original purpose for this request is to have additional space to store vehicles that are being worked on and Ms. Moreira said that is correct. That way, she said they would have the entire area between the house and the shop open and they could store the vehicles in the back.

Mr. Sharkey said he sees two choices. One is to pursue the B-3 rezoning request, and if approved, the petitioner could not use the residence (for rental purposes). The other option is to withdraw this request and apply for a PUD.

Ms. Moreira decided to proceed with the request for a zone map change from R-2 to B-3 as she does not want to take the chance of spending the money (for a DPUD) and not being approved.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Miller/Wolgamood*) that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from R-2 to B-3 be

approved in accordance with the Staff Analysis. With a unanimous roll call vote, the motion was carried.

10. With regard to the staff item for the vacation of an easement for *Lots 4 & 5 Long's Replat in Miller's Home Acres*, Mr. Burrow reported that this was already presented by Mr. Kanney and acted upon a few months ago. Mr. Kanney was just waiting on letters, which they now have, so they can take the approval to the county commissioners.

11. Discussion of the proposed *Seasonal High Water Table Notification Policy* followed. Mr. Yoder explained that the email in the board members' packets is just an example of what they discussed last month.

At last month's meeting, Mr. Kanney said they presented to the Board different options for building basements in high groundwater. He recalled that the conclusion the Board came to was that a disclaimer statement should be signed by property owners prior to any foundation permits being issued. He said the certificate included in their packets was primarily written by Mr. Kolbus and reviewed with Mr. Watkins.

According to the zoning ordinance, Mr. Kanney said the zoning administrator has the right to require certain information prior to the issuance of a zoning clearance. Therefore, he said they are asking for the Board to adopt a policy in conjunction with the zoning administrator that the proposed Seasonal High Water Table Notification Certificate (*Appendix #2*) be signed by the contractor and the owner prior to the issuance of a (building) permit for a foundation. In briefly summarizing the statement, he said if you encounter groundwater and try to build in it, you most likely will have problems.

Mr. Sharkey commented that they are not telling someone they can't build on the property, they are just advising them of the problems. It's their choice whether they want to build on it or not and Mr. Kanney said that is correct.

Mr. Miller wondered if they are putting the agent or the person building and selling the property under any legal obligation. Mr. Kolbus said it is an obligation between the Board and those individuals. The document is saying they are on notice, and if they have these issues, they should be getting design work done by an architect or engineer. If there is a future problem, he said one or the other can go back to the developer.

By signing this document, Mr. Doriot said you are acknowledging that you may have problems if you put a basement in a wet hole. The owner of the property and the agent of the owner need to sign the document, and if the builder signs it as the agent, Mr. Doriot said he actually will be taking on some of that responsibility, which is the way he feels it should be.

Mr. Warner felt this is one of the best things they can do for the protection of homeowners/home builders in the process to bring recognition to this problem. Mr. Kanney did not disagree.

Mr. Yoder asked if this certificate is required for every building permit and Mr. Kanney said it was written as anything with a foundation.

If a developer signs the certificate, builds a spec home and sells it to someone else, but doesn't tell the new owner he signed it, Mr. Sharkey asked if that puts the developer up for litigation. Mr. Kolbus said he's told the homeowners' attorney would use it against the developer. When Mr. Sharkey commented that it is still "buyer beware", Mr. Kolbus said it is unless he inspected the file as the certificate will be on file. He then explained that there is a residential

disclosure form, and the most recent court cases are finding that form basically to be warranties by the current homeowner. If you say it doesn't leak and it leaks, he said you're on the hook.

Mr. Yoder recalled that last month they talked about this just being the first step and one they felt comfortable with. Mr. Kolbus agreed saying it doesn't solve all of the issues, and several board members felt it was a start and the best thing they can do at this point.

Mr. Yoder commented that the only other solution is no more basements and Mrs. Wolgamood said that's why she feels this is just a piece of paper to attach to another piece of paper. If she sent the email to Mr. Yoder and read all of the responses, and then read this proposed policy, she wouldn't think this is going to help her at all.

In his years of experience as a registered soil scientist, Mr. Burrow said he's seen no one taking any control over this issue. When asked what he thinks this disclaimer is going to do, it was his opinion that it will do nothing.

Mr. Burrow feels that soil borings should be required on every structure just like they require a survey on every subdivision. The reason they require a survey is not because the homeowner wants to use them, it's so everyone knows where their property lines are. It was also his opinion that a company who routinely uses a soil scientist on their projects cannot compete against other companies who do not include this information into their request. He said we are allowing people to shortcut and we are not creating a level playing field.

Mrs. Wolgamood asked if he's suggesting this disclaimer will not help and that we need to take it one step farther by making soil borings required on every single lot. When Mr. Burrow said that is correct, Mrs. Wolgamood recalled in previous discussion that this Board is not ready to do that. If a basement is filled-in on a home that is estimated at \$200,000, he asked what happens to the value of that home. He feels the problem is that they are not protecting the consumer's investment, and from a taxpayer's point of view, they are destroying the tax base.

Mr. Sharkey pointed out that the consumer is still going to pay for it, and Mr. Burrow asked why he would hire a surveyor unless someone told him to.

When this statement was first discussed, Mr. Doriot said they talked about the soils maps. He asked why he would be treated the same as someone trying to build in Brookston if he's in mapped soil with a seasonal high water table of greater than six feet. According to Mr. Burrow, 70 percent of the soils in Elkhart County are a problem soil. In doing some research on the database, he also said that 60 percent of the houses that were issued building permits with basements were in a water table. The information is being generated with the Health Department, but he said they can't get people to use it.

Mr. Miller commented that they are using the information he's talked about when a mound system is required. Mr. Burrow said that is now part of the process, but it took a few years to make sure that was done. If they are not going to require it, he said any references to having information on soils in the Subdivision Ordinance should be removed.

It was Mr. Miller's recollection that Barry Pharis felt it was not fair to require additional costs to the consumer for additional soil borings. For those who want to build a basement, he asked how they determine a mound system is needed if the borings aren't done already. However, it was pointed out that borings are being done, but only in the area of the house and not at a depth adequate for a basement.

From a planning point of view, Mr. Burrow said if they know there is a problem, they may be able to solve it in the beginning. He's not saying you can't have a basement, they're just asking that you design around the limitations associated with the soil if you have that information.

Mr. Warner wondered if they should ask the staff to develop a proposal they can use as a requirement or to research what other counties may already have. Again, Mrs. Wolgamood said it was her understanding the Board did not want to do that and that's the reason for this disclaimer.

Mr. Yoder said he would personally like something a little stronger, but he acknowledged this is one more regulation.

It was Mr. Doriot's belief that someone building a house, their biggest investment, is going to do enough without being told to. However, Mr. Yoder said that more often they are getting people who purchased homes and are walking into something they are not aware of.

Mr. Sharkey thought the mortgage holder would want something like this, but Mr. Doriot said fewer inspections are being done by the mortgage companies.

Mr. Yoder asked if the Board wants to adopt the proposed notification certificate, or if they feel they want to pursue this further.

Mr. Miller moved that they pursue this issue further and Mr. Warner seconded the motion.

Prior to voting, Mr. Kanney explained that at the last meeting they presented the possibility that you supply a boring of every lot deep enough to determine if a basement could go there or not at primary approval. It was also suggested that the developer place on the final plat which lots can and cannot have basements based on the scheme of the overall development.

Mr. Doriot wondered if the county would be liable if the plat indicates a basement would be permitted on a lot, but they later have a problem with water. Mr. Kanney pointed out that the information is submitted by the developer.

Mr. Burrow suggested they have stakeholders discuss with the staff what they feel is appropriate. When Mr. Kolbus asked Mr. Miller if that's what he meant by further action, he replied yes.

Mr. Kanney then asked if this would be a good topic for a planning workshop and the consensus was yes. It was suggested that they also invite Barry Pharis, Chris Marbach, and possibly Don Schnoebelen a soil scientist.

Mr. Yoder then clarified the motion on the floor that they move forward with a committee to work on a recommendation for more stringent standards, or discuss it at a workshop. The motion was then carried with a unanimous vote.

Mr. Miller then moved that the implementation of the Seasonal High Water Table Notification Certificate be tabled; however, the motion died due to the lack of a second.

A motion was then made by Mr. Doriot to adopt Appendix 2 (Seasonal High Water Table Notification Certificate) as an interim policy, but after further discussion, the motion died due to the lack of a second.

12. A motion to adjourn the meeting was made by Mr. Sharkey and seconded by Mr. Warner. With a unanimous vote, the meeting was adjourned at 10:40 a.m.

Respectfully submitted,

Kathleen L. Wilson, Recording Secretary

Mike Yoder, Chairman