

MINUTES

ELKHART COUNTY PLAT COMMITTEE MEETING

HELD ON THE 11th DAY OF APRIL 2013 AT 8:30 A.M.

MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING

4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plat Committee was called to order by the Chairperson, Roger Miller, with the following members present: Blake Doriot, Jeff Burbrink, Roger Miller, and Tom Stump. Doug Miller was absent. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Mark Kanney, Planner; Duane Burrow, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Burbrink/Doriot*) that the minutes for the January 10th, February 14th, and March 14, 2013 meetings of the Elkhart County Plat Committee be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Doriot/Burbrink*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearing and the motion was carried unanimously.

4. The application for Primary approval of a two lot minor subdivision to be known as **LESTER'S MINOR**, for Earl Lee & Kathryn Yoder represented by Cardinal Point Surveying, on property located on the South side of CR 52, 300 ft. East of CR 100 in Locke Township, zoned A-1, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #30442CR 52-130305-1*.

Phil Barker, Cardinal Point Surveying, 1002 Zollinger Road, Goshen, represented this petition. He said that Mr. Yoder owns the entire farm and the intent of the Administrative Subdivision was to allow him to build a new residence. His daughter and son-in-law, Lester, are technically, the developers. They are building on lot 2 and Lester will end up being the owner of the entire farm at some point.

Mr. Barker stated that as far as the groundwater problem is concerned they will be limited to a mound septic system. He said there is an existing tile that was run to the South across US 6 to a ditch for a perimeter drain outlet. Mr. Barker indicated that the necessary easements are in place also. Mr. Doriot asked if they are well aware of the high water problems and Mr. Barker said they were aware of it. Mr. Doriot wanted to get on the record that if they are going to have a basement they will have to design it so that it is dry and the County should not be held responsible. Mr. Barker clarified that the drain is around 12 ft. deep. He explained that they have a basement in the first house and they will have a basement in the new house with a perimeter drain around that. He stated the perimeter drain around the septic will outlet to the tile running South.

Roger Miller asked why there appeared to be an additional property line displayed on the GIS map. Mr. Barker explained that one of the lines represented where the original Administrative Subdivision line was created.

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

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Blake Doriot that the Plat Committee grant Primary approval of a two lot minor subdivision as it meets the requirements of the Subdivision Control Ordinance and comments of the Technical Advisory Committee.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

5. The application for Secondary approval of a replat of Lots 2 & 3 of Golden Pond – Section One to be known as **GOLDEN POND REPLAT**, for Derek & Georgeann Ewald (owner of Lot 2) and Robert G. & Pamela L. Decraene (owner of Lot 3) represented by Lang, Feeney & Associates, Inc., on property located on the West side of Thoreau Court, 120 ft. South of Golden Pond Trail, East of CR 3 in Cleveland Township, zoned A-1, was presented at this time.

Brian Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #50885ThoreauCt-130304-1*.

Terry Lang. Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, was present to represent this petition. Mr. Lang explained that the owner of the residence to the south is the father and the daughter lives in the house to the north. The line is very close to the swimming pool on the north edge of the property and since the father is going to move to Florida, they wanted to replat the property before they sell the house, while it is still in the family.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Jeff Burbrink that this request for lots 2 and 3 be replatted to adjust the interior lot line and that approval be granted by the Plat Committee in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

6. The application for Secondary approval of an existing Detailed Planned Unit Development known as **REPLAT LOT 9 ELKHART EAST AREA 'D' - PHASE II**, for Vista Building LLC represented by Jones Petrie Rafinski, on property located on the West side of Columbia Drive, South of Elkhart East Blvd., South of CR 6, West of CR 17 in Osolo Township, zoned DPUD- E-3, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #COLUMBIA DR-130204-1*.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Jeff Burbrink that the Plat Committee grant Secondary approval for the Development Plan (PUD Plat) and forward it to the Board of County Commissioners with a favorable recommendation.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

7. The application for Secondary approval of a Detailed Planned Unit Development known as **ANCHOR RIDGE D.P.U.D. – PHASE TWO**, for Big M, Inc. (owner) and Marv Schmucker (developer) represented by Brads-Ko Engineering & Surveying, Inc., on property located on the East side of SR 13, 3,000 ft. South of SR 120 in York Township, zoned A-1/DPUD-A-1, was presented at this time.

Duane Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #53254SR 13-130218-1*.

Roger Miller asked if the manmade lake changed anything that has to deal with a wetland and Mr. Burrow said no. He explained that the lake was a result of a Special Use gravel pit that was excavated in the 1980's and 1990's. Roger Miller questioned how the water was cared for after people buy all the way around it. Mr. Doriot replied that it is shared by the landowners. Mr. Burrow explained that it is a common area within this plat, so subsequently, everyone owns it in common. He said all the neighbors have to work together on that.

Mr. Doriot asked how they would access lots 7 and 8. Mr. Burrow told him the access would be through the common area. He said there is no specific easement established on it, but the public road itself is the common area. Therefore, there really is no need for an easement for access. Mr. Doriot read from the plat shown in the private roadway area, "A 40 ft. wide ingress/egress and utility easement". He said there is the ingress and egress, Mr. Burrow agreed but said it is part of the common area.

Greg Shock, Brads-Ko Engineering & Surveying, 1009 S. 9th Street, Goshen, was present to represent the Big M Inc., Marv Schmucker, the developer's request. He said when they initially presented this petition they presented it with an access and Planning asked him to remove them because they felt they were common areas and that it was not necessary to have the access there. Mr. Shock said they could go back and request it that way. Mr. Doriot did not agree with Staff on this issue. He believed the simple fact is that the owners of lots 1, 2, 3, 4, 5, and 9 can tell them that they cannot drive across that property.

Mr. Shock said the original access for lot 7 was along the west side coming up along the west line, and extended south to the common area. He said lot 8 would come south. Mr. Doriot suggested a plat note in the common area north of the private road indicating lots 7 and 8 have the right to access across. Mr. Kolbus said, otherwise, they would have no access. Mr. Doriot stated that to him, they don't and even though they say they can drive across the common area now, if all of the other owners get together they can tell them they do not want them to drive across it. He mentioned he did not know how the common area is set up and Mr. Kolbus agreed they do not have that information. Roger Miller inquired whether it could be written into a bylaw. Mr. Doriot said it could be written into a bylaw or it could be written on the face of the plat. Mr. Shock said they could add it to the plat and also there are a set of bylaws and conditions for it. Roger Miller clarified that they are not going to change anything that is going to be built; only the drawing would be changed and Mr. Shock agreed. Mr. Kolbus said it is landlocked on the face of the plat.

Mr. Doriot said he was in agreement with the plat, other than the access for lots 7 and 8. Mr. Shock said they are not opposed to an easement, because originally they proposed to add easements in through that common area.

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

Motion: Action: Approve, **Moved by** Blake Doriot with his concerns noted, **Seconded by** Jeff Burbrink to recommend to the County Commissioners approval as long as the petitioner provides permanent access across the common area south of lots 7 and 8, and north of the private roadway.

Mr. Doriot asked if the motion was acceptable, and Mr. Burrow stated that the problem is that they are making changes to a DPUD. Mr. Doriot thought that it was a minor change. Mr. Burrow said they need a document that reflects that. He felt it would be more appropriate for them to withdraw from the Commissioner's hearing Monday, April 15. Mr. Kolbus recommended that it go to the Plan Commission so they can deem it to be a minor change.

Mr. Doriot asked Mr. Shock what this would do to his time schedule. Mr. Shock told him Big M, Inc. wants to build on lot 9 at this time. Roger Miller did not think it would affect the two lots in question's time table. Mr. Shock agreed, because lot 9 would have access. Mr. Doriot suggested that the Plan Commission approve the petition as is and then Mr. Shock could bring a minor change back. Mr. Shock agreed.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

8. The application for Secondary approval of an 11 lot major subdivision known as **COPPERFIELD TENTH**, for Fireside Homes, Inc. (owner/developer) and Michael & Elaine Ryan (owner of Lot 124) represented by Brads-Ko Engineering & Surveying, Inc., on property located on the West end of Copperfield Lane, 2,300 ft. West of CR 1, 3,000 ft. South of CR 2 in Cleveland Township, zoned A-1, was presented at this time.

Mark Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #0COPPERFIELD LANE-130318-1*.

Mr. Kanney stated that the Staff still needs a Performance Bond, a Guarantee, and a SWPPP; therefore, they are recommending that this request be tabled until the requirements of the Subdivision Control Ordinance are met.

Greg Shock, Brads-Ko Engineering & Surveying, Inc. was present to represent Fireside Homes, the developer, and the owner of proposed lot 24, which is Michael & Elaine Ryan. He asked for approval the Secondary plat at this time. Mr. Shock said Tim Miller of Fireside Homes, is putting together the Performance Bond, so that will be in place. Mr. Shock stated that he was under the impression that the SWPPP is also in place at this time and it was renewed last year.

Mr. Doriot informed them that there was a SWPPP put on the entire project. Mr. Shock agreed and said it was renewed. Mr. Kanney asked about the Bond and Mr. Shock told him Mr. Miller is putting together the Bond at this time.

Mr. Doriot asked if the Plan Commission could move this petition forward to the County Commissioners, pending that the petitioner present the Bond. He wanted clarification whether the Commissioners have to accept the right-of-way before they can move forward and can the Commissioners accept the Bond. Mr. Kolbus was not certain how the Commissioners handle these situations. Mr. Kanney said the Plan Commission can approve it that way or hold it until they have everything for the Commissioners.

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

Motion: Action: Approve, **Moved by** Blake Doriot, **Seconded by** Jeff Burbrink that this Secondary for an 11 lot major subdivision be approved and sent to the County Commissioners with a favorable recommendation, with the Commissioner's acceptance of the right-of-way until the Bond is in place and after meeting the requirements of the Stormwater Pollution Prevention Plan.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

9. A motion was then made and seconded (*Doriot/Burbrink*) to adjourn the meeting.

Respectfully submitted,

Sandra Herli
Recording Secretary