

MINUTES
ELKHART COUNTY PLAT COMMITTEE MEETING
HELD ON THE 11TH DAY OF DECEMBER 2008 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, Meg Wolgamood, with the following members present: Jeff Burbrink, Blake Doriot, 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 (*Yoder/Doriot*) that the minutes of the regular meeting for the Elkhart County Plat Committee held on the 13th day of November 2008 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 one lot minor subdivision to be known as **BOREN-SHOUP MINOR**, for Gregory & Noell Boren represented by Brads-Ko Engineering & Surveying, on property located on the East side of CR 35, 2,500 ft. South of SR 120 in York Township, zoned A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083369*. He said the property owners are aware that a 3 to 1 depth to width ratio variance will be needed for the remnant parcel before a permit for a residence can be issued.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th St., Goshen, was present representing Dee and Matt Shoup, purchasers of the subject site, and Greg and Noell Boren, the sellers.

He explained that the Shoups own property to the north where they have a horse barn, pasture and riding trails. The Borens want to divest and this wooded nine acres to the rear of the Borens' house fits perfectly with their horse farm. They can add additional trails and this will give them more space to utilize for the horses. The way to accomplish this is a one lot minor so the Borens can then market the existing single family residence. In addition, he said they have done a line of sight survey and they know the driveway is safe.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Burbrink*) that Primary approval of this one lot minor subdivision be granted in accordance with the Staff Analysis and comments of the Technical Advisory Committee. The motion was carried with a unanimous vote.

5. The application for Primary approval of a three lot minor subdivision to be known as **FIRST REPLAT BARNES MINOR SUBDIVISION**, for Jeffrey J. & Jackie L. Barnes represented by Marbach, Brady & Weaver, on property located on the West side of SR 13, 2,100 ft. North of CR 10 in York Township, zoned A-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083364*. In presenting the report of the Technical Advisory Committee, he explained that he added the requirement of submitting a Storm Water Pollution Prevention Plan (SWPPP) if more than an acre is disturbed just because it has been requested, but he said it's unlikely.

Present on behalf of this request was Chris Marbach of Marbach, Brady & Weaver, 3220 Southview Drive, Elkhart. He reported that an InDOT permit for the driveway on SR 13 has already been issued and was submitted with the application. At the time they did the first two original subdivision lots for the first Barnes Minor, he said the Barnes' did not own this property behind them. They have since acquired that property and now want to build their dream house in the back and sell the property in the front.

When asked if they have filed for the variances, Mr. Marbach said he would as soon as this is approved.

The larger site plan was then reviewed with the Board. Mr. Marbach pointed out the existing driveway that will be removed and where the new one will be constructed.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Doriot/Yoder*) that Primary approval of this three lot minor subdivision be granted in accordance with the Staff Analysis and comments of the Technical Advisory Committee with the following conditions imposed:

1. Lot 2A and Lot 3 require lot width variances from 100 feet and 3 to 1 depth to width ratio variances from the County Board of Zoning Appeals. Staff will recommend that these two variances be made conditions of the primary plat.
2. If more than one acre is disturbed, a Storm Water Pollution Prevention Plan must be submitted and approved.
3. The secondary plat name to be changed to Barnes Minor First Replat.
4. The word "septic" to be removed in the plat note: Type of Improvements.

The motion was carried unanimously.

6. The application for Secondary approval of a one lot industrial subdivision known as ***FOREST RIVER MANCHESTER DRIVE INDUSTRIAL SUBDIVISION***, for Forest River, Inc. represented by Wightman Petrie, Inc., on property located on the East side of CR 1, 600 ft. North of Old US 20 in Baugo Township, zoned M-1, was presented at this time.

Mr. Nemeth presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083235*. He explained that the only difference since the approval last May is the removal of the Lot 1 designation.

Mrs. Wolgamood questioned the reason for removing the Lot 1 designation. Kenny Jones of Wightman Petrie, Inc., 4703 Chester Dr., Elkhart, said the owner's intention is to split the property and construct a site on the east side. As soon as that is either being designed or permitted at the city, he said they will start the annexation process. According to Mr. Jones, there were some concerns with the planning staff about taking what was Lot 1 and splitting it in half so the decision was made to turn it into a true industrial subdivision where no lots are actually platted. Since it was never recorded, he said it's really not a replat.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Burbrink/Doriot*) that the Plat Committee grant Secondary approval as this meets the requirements of the Subdivision Control Ordinance. With a unanimous vote, the motion was carried.

7. The application for Secondary approval of a Detailed Planned Unit Development known as **CIRCLE L/SPEEDWAY DPUD**, for LBS Team, LLC, Speedway SuperAmerica, LLC represented by Brads-Ko Engineering & Surveying, on property located on the Northwest corner of US 20 and SR 15 in Jefferson Township, zoned B-3 PUD, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083368*. It was then clarified that Lot 3 is not shown.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Doriot*) that the Plat Committee grant Secondary approval of this Detailed Planned Unit Development as the Development Plan meets the Detailed Planned Unit Development Ordinance, the Elkhart County Zoning Ordinance, and the Subdivision Control Ordinance. The motion was carried with a unanimous vote.

8. The application for Secondary approval of a Detailed Planned Unit Development-M-2 known as **VIM DPUD**, for K.C. Industries, LLC (owner/developer) represented by Marbach, Brady & Weaver, on property located on the North side of Old US 33, 1,140 ft. East of CR 1 and East side of CR 1, 700 ft. North of Old US 33 in Baugo Township, zoned DPUD-M-2, was presented at this time.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083128*. He added that there is an extensive amount of earth work that needs to be done to comply with the adopted site plan.

In addition to that issue, Mr. Kolbus said there is also litigation going on, but those are all irrelevant to this Secondary approval. The Board needs to determine if this meets Primary approval, and if it does not, they cannot grant Secondary approval. He feels this was more a notice provision to put the petitioner on notice that they have a deadline coming up.

For clarification, Mrs. Wolgamood asked the staff if they are saying the items of issue are not in compliance with Primary, but Mr. Burrow said they are not in compliance with the DPUD ordinance. The issues were not specified, but he said they were tentatively excluded provided they would submit that documentation. When she asked if those two items cannot come into play when granting Secondary, Mr. Kolbus said if they are not a condition of Primary, they are not relevant to the Board's discussion today.

Mrs. Wolgamood then asked if the petitioner is in compliance with Secondary and Mr. Burrow said they have met the requirements in terms of a secondary plat. They don't have those items in place, but he said it wasn't detailed in the DPUD approval that this was deficient. The only issue is that the Tech Committee took umbrage with the fact that they said they would get those items taken care of and they have not.

Chris Marbach of Marbach, Brady & Weaver, 3220 Southview Drive, Elkhart, was present on behalf of this request and he submitted a copy of the recorded DPUD Ordinance with all of the conditions attached to this project [*attached to file as Petitioner Exhibit #1*]. He said there is no where in that document where it says Rule 5 has to be done for a Secondary plat nor does it say anything about septic or mound system designs. It does, however, reference the site plan as part of the original documents, which he then displayed to the Board. It shows all of the soil borings and the reserve area for the mound system. According to Mr. Marbach, the soil borings were turned in, and in addition to being shown on the drawing, they are part of the exhibits that are part of this document, but the Health Department said they cannot find them. He then submitted a copy of the soil boring report dated June 26 to the Board for review [*attached to file as Petitioner Exhibit #2*].

Mr. Marbach said they are not denying that a Rule 5 has to be done, they are only asking that the Secondary plat be approved so they can clean up this site from a description metes and bounds scenario, dedicate the right-of-way along the two county roads to the County, and get some of those issues resolved while the other issues are going on. He believes that the Secondary drawing complies with the ordinance and the approved recorded DPUD ordinance.

Mr. Burrow agreed that it's not a material issue; it's more of a procedural issue. If this is not approved, he said it doesn't change anything other than they're just trying to administratively take care of the metes and bounds description.

When Mr. Doriot asked if they are going to have the storm water plan in by the time they go out in February, Mr. Marbach said he hopes to. He indicated they are in the process of getting a contract to do that work.

Mr. Yoder said he's more inclined to move this through as it sounds like the only issue is a storm water plan, which they have plans to do. With regard to the soil boring report, he said it was filed back in June and the fact the Health Department lost it is not the petitioner's problem. However, Mr. Burrow said it is short the actual engineered design of the mound system.

If they meet the conditions of Primary approval, Mr. Kolbus said the Board needs to grant Secondary and if there things that need to be handled administratively, they need to handle it administratively.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Yoder/Doriot*) that Secondary approval of this Detailed Planned Unit Development be granted by the Plat Committee and the motion was carried unanimously.

9. The meeting was adjourned at 8:59 a.m.

Respectfully submitted,

Kathleen L. Wilson
Recording Secretary