

April 13, 2011

The Hendricks County Area Plan Commission Administrative and Plat Committee held a meeting on Wednesday, April 13, 2011 at 9:00 a.m. in the Hendricks County Government Center, Rooms 4 & 5, 355 South Washington Street, Danville, Indiana. Members present: Mr. Don F. Reitz, Plan Director and Chairman; Mr. John Ayers, County Engineer; Mr. Brett Pickett, Deputy Surveyor; Mrs. Cathy Grindstaff, Environmental Health Director; and Mrs. Sonnie Johnston, Plan Commission Representative. Also present was: Mr. Eric Fazzini, Plan Technician; Mr. Roger Salsman, Engineering Inspector; and Mrs. Joanne Garcia, Recording Secretary.

Mr. Reitz called the meeting to order. There was a quorum with five (5) voting members present.

Mr. Reitz called for a vote to approve the minutes for the February 9, 2011 and March 9, 2011 meeting minutes.

Mr. Pickett then made a motion to grant approval for the February 9, 2011 minutes.

Mr. Ayers seconded the motion with Mrs. Johnston and Mrs. Grindstaff abstaining.

FOR – 3 –                      AGAINST – 0 –                      ABSTAINED – 2 –

The vote for the March 9, 2011 meeting minutes was as follows with Mrs. Grindstaff abstaining:

FOR – 4 –                      AGAINST – 0 –                      ABSTAINED – 1 –

Mr. Reitz then stated that there was one matter withdrawn from the agenda, that being:

**MRP 008/11: MICHAEL P. EATON (EXTENSION OF TIME TO RECORD)**

Mr. Reitz then announced the continuances on the agenda for thirty days as follows:

**MAP 731/11 (PUD 35): INDIANA TRAILS, SECTION ONE (SECONDARY)**

**MAP 731/11 (PUD 35): INDIANA TRAILS, SECTION TWO (SECONDARY)**

Mr. Pickett made a motion to grant a thirty (30) day continuance to the May meeting for **MAP 731/11: Indiana Trails, Section One (Secondary)**.

Mrs. Johnston seconded the motion.

FOR – 5 –                      AGAINST – 0 –                      ABSTAINED – 0 –

Mr. Pickett then made a motion to grant a thirty (30) day continuance to the May meeting for **MAP 731/11: Indiana Trails, Section Two (Secondary)**.

Mrs. Johnston seconded the motion.

FOR – 5 –                      AGAINST – 0 –                      ABSTAINED – 0 –

Mr. Reitz called for the first item on the public hearing agenda as follows:

**MIP 1048/11: DAVID & PAULINE ROBISON;** a 2-lot minor subdivision on 21.06 acres, Center Township, S36-T16N-R1W, located on the north side of County Road 100 North, approximately 0.25 mile west of County Road 300 East. (Higbie Land Surveying, Inc.)

**WA 242/11: MIP 1048 DAVID & PAULINE ROBISON;** a Waiver of the Subdivision Control Ordinance, Chapter 2 Minimum Development Standards, Section 2.11 (2.) (b.) Lot Improvements – Access Limited. (Higbie Land Surveying, Inc.)

April 13, 2011

Mr. Tony Higbie of Higbie Land Surveying, Inc. appeared on behalf of the applicants, David & Pauline Robison. He stated that the Robison's now resided on the existing lot and were proposing another lot to construct another house on and to then sell the existing lot and home. He reviewed the location of the proposed minor subdivision and discussed the natural drainage way through the middle of the project that continued on into the adjoining Deer Creek Subdivision. He stated that the Drainage Board had granted them approval for their proposal subject to revised drainage calculations. He stated they were proposing it to be a regulated drainage easement. He reviewed the drainage plans for the proposed project. He stated that the Drainage Board requested an access easement to the legal drain and he had provided one. He reviewed the location of the proposed house on the new lot. He stated he had discussed the location for the septic system and ssfe. He then discussed the existing power poles and stated that Hendricks Power Cooperative would not relocate the power poles that were close to the edge of the road shoulder.

Mr. Ayers asked how many power poles were there.

Mr. Higbie stated that there was one located at the west end, one close to the driveway and one down towards the east end of the property.

Mr. Ayers asked where the poles fell in relation to the shoulder.

Mr. Higbie responded that they fell close to the end of the seven foot shoulder.

Mr. Ayers stated he was not happy with the power company's decision.

Mr. Higbie then explained that they would install a roadside ditch and would relocate the driveway in order to meet the 3:1 depth to width ratio. He stated they had also filed a waiver in regard to limited access. He stated that they had revised the landscaping plan in regard to tree selection. He stated there was also an existing fence that would be moved back.

Mr. Ayers stated in regard to the erosion control, he did not have a problem with the rip rap at the end of the drive pipe.

Mr. Reitz then asked Mr. Ayers if staff recommendation #4 in regard to alternative erosion control measures used would not apply.

Mr. Ayers responded #4 would not apply as to using an alternative measure to rip rap.

Mr. Reitz asked Mr. Higbie if he was in agreement with all of the staff recommendations in letter dated April 5, 2011.

Mr. Higbie stated he was in agreement with those recommendations.

Mr. Reitz asked Mr. Pickett if the Surveyor's office was okay with the project.

Mr. Pickett stated he had no problem with the proposals.

Mr. Grindstaff of the Environmental Health Department stated that because of the detail shown in the drawings, the project would require an above ground septic system and that they could make changes when it was designed for the permit.

There being no other comments, Mr. Reitz opened the public hearing. There being no one signed up to be heard, Mr. Reitz closed the public hearing and asked for any final comments. There being none, Mr. Reitz called for a motion.

Mr. Ayers then made a motion to grant approval for **MIP 1048/11: David & Pauline Robison** subject to the following:

1. Staff recommendations and conditions in staff's letter dated April 5, 2011; and
2. Staff recommendation #4 omitted per meeting discussion.

Mr. Pickett seconded the motion.

FOR – 5 –                      AGAINST – 0 –                      ABSTAINED – 0 –

Mr. Ayers then made a motion to grant approval for **WA 242/11: MIP 1048 David & Pauline Robison – Access Limited**.

Mr. Pickett seconded the motion.

FOR – 5 –                      AGAINST – 0 –                      ABSTAINED – 0 –

The staff recommendations and conditions were as follows:

**DRAINAGE CONDITIONS:**

1. Subject to Drainage Board approval and the conditions of the County Surveyor.

**STAFF RECOMMENDATIONS:**

1. This development is subject to the Residential Design Standards in the Hendricks County Zoning Ordinance; (HCZO Chapter 8.1).
2. WA 242- The applicant has requested a waiver of the Subdivision Control Ordinance (HCSCO) requirement that prohibits residential driveway access from a collector road. The applicant has stated in their written request that the existing driveway on Lot 2 is too far west and would require crossing the septic system. Staff has no objection to the request; (HCSCO Chapter 2.11 (2)(b)).
3. The applicant has stated that Hendricks Power will not be relocating the existing power poles to the rear of the proposed right-of-way. The County Engineer will need to determine if the power poles should be relocated to the rear of the proposed right-of-way.
4. The plan specifies that rip rap be placed at the end of the cmp. While it is a valid erosion control measure, it does present a maintenance issue down the road. It should either be removed or an alternative erosion control measure proposed.
5. The street trees for this development are required prior to recording of the plat as they are a master improvement. The second sentence of the Landscaping Note should be omitted to reflect this.
  - a. If the power poles are required to be relocated, streets trees under or within 10 lateral feet of wires must be an ornamental species rather than deciduous.

**CONDITIONS OF APPROVAL:**

1. A properly executed County/Owner Inspection Agreement must be provided prior to approval with all appropriate fees paid prior to the start of any construction.
2. This project is subject to the National Pollutant Discharge Elimination System (NPDES) General Permit covering storm water quality. Procedures there under are governed locally by the Hendricks County Stormwater Management Ordinance and corresponding Technical Standards Manual. An application, fees, construction plans, specifications and Stormwater Pollution Prevention Plan must be presented for approval to the Hendricks County Drainage Board separately from the application to the Hendricks County Area Plan Commission. Secondary Stormwater Approval for a plat, PUD or development plan must be obtained from the Drainage Board prior to Secondary Approval (or Approval in the case of minor plats) by the Plan Commission or its Administrative and Plat Committee. In addition, an Erosion Control Permit

issued by the Hendricks County Surveyor is required for individual building lots prior to obtaining a Building Permit from the Planning and Building Department.

3. A septic system must be designed for these lots prior to building permit application to reflect the actual house location and size. The initial review of the submitted soil analysis indicates that the soils are rated severe and that septic systems are feasible on these lots, however due to the limiting sub surface drain outlet elevation an above ground system may be required. Additional soil borings for each lot may be required at the time of septic permit application. Proposed subsurface drain outlet elevations are required on each lot prior to final approval.
4. The absorption field areas must be fenced in such a way that accidental crossing of the site with equipment is prohibited. This may be done by farm fence, snow fence, or other similar materials. Preservation of the absorption field areas is the responsibility of the developer and if these areas are not preserved, it could make the lots unbuildable.
5. Secondary septic field easements (SSFE) must be shown on the plat, or separate easement document to be recorded with the plat must be provided.
6. Prior to recording a statement must be added to the plat that states: Those designated as secondary septic field easements (SSFE) are secondary septic field easements that are hereby expressly reserved for the purpose of the placement of a sewage disposal field. Uses shall be limited to those consistent with the proper operation of a septic system and that will not result in soil compaction. The easement shall terminate only with the written approval of the Hendricks County Health Officer.
7. The Hendricks County Planning and Building Department must be notified at least seventy-two (72) hours prior to any site improvements being installed.
8. Addresses must be added to the final plat prior to recording. The Director of the Plan Commission will not sign the final plat without addresses included. To obtain addresses, the applicant must submit a request to the Planning and Building Department well in advance of the recording package being forwarded to the Hendricks County Engineer's Office. The Plat Address Information Sheet submitted with the plat application does not constitute a request for addresses.

Mr. Reitz stated that the next item on the agenda was for discussion as follows:

**EDWARDS-RIGDON CONSTRUCTION COMPANY, INC.  
Clarification of Conditions of Approval – Danville Chrysler Dodge Jeep**

Mr. Jeff Rigdon of Edwards-Rigdon Construction Company appeared to discuss his company's purchase of the maintenance bond for the Danville Chrysler Dodge Jeep site approximately four years ago. He stated the problem was that the end of the maintenance period was approaching and there were some items that needed to be addressed or taken care of. He stated he had spoken with the owner of the property, Gary Houser of H & M Development. He stated that Mr. Houser indicated he was not interested in doing anything about the problem. Mr. Rigdon stated that since they were the owner of the bond, they would be required to resolve the problem without any help from Mr. Houser. He stated that the letter he had in his possession which had been sent to Mr. Houser and was dated March 9, listed eight items that needed to be addressed. He stated he had discussed all of them with the Planning & Building Department Engineering Inspector, Roger Salsman. He then discussed the first item as to the asphalt surface completion. He stated the lot had been paved but did not have the surface course, which was not in their original contract with Mr. Houser because Mr. Houser had not wanted to do that at the time. He stated that Mr. Houser had made an agreement with the county to complete it prior to the end of the maintenance period. He stated the asphalt was there and was in good shape and he asked that this item be waived.

Mr. Reitz asked about the other items on the list.

Mr. Rigdon stated that the landscaping item had not been in their original contract. He stated that Mr. Houser had replaced some of the plants once and some twice. He stated that most of the plants were doing well but about 48 of the 150 Weigela plants had died. He stated he would rather not replace them but would if required.

Mr. Reitz asked for Mr. Salsman's comments on the asphalt.

Mr. Roger Salsman, Engineering Inspector, stated that the asphalt by the zoning ordinance was required to be a hard surface.

Mr. Ayers asked if it was currently in binder.

Mr. Salsman stated yes and that the overlay on and within the road right-of-way of County Road 525 was surfaced out.

Mr. Ayers stated that there was a problem with leaving the parking lot in binder as it was not meant to be exposed for very long and it would degrade and deteriorate.

Mr. Rigdon stated he was aware of that fact.

Mr. Ayers stated that if Mr. Houser had agreed to complete the surface by the end of the maintenance period, then it should be done. He stated he understood the situation with the dealership but felt that down the road he was concerned about the condition of the asphalt if nothing was done.

Mr. Ayers asked if Mr. Houser still owned the property.

Mr. Rigdon stated that in his discussion with Mr. Houser, Mr. Houser had told him that the Chrysler Corporation would soon own the property.

Mr. Ayers stated that whoever owned the property would need to complete the surface. He stated he felt it was in the best interests of the property owner to protect that surface and complete it.

Mr. Ayers asked what other items were mentioned on the list.

Mr. Rigdon stated that there was a detention basin that was eroded and he stated he planned to fix that as well as sealing of the asphalt out on County Road 525. He stated that most of the other items were just concerns about debris plugging the outlets, etc.

Mr. Salsman stated that additional rip rap might be needed for three structures.

Mr. Reitz stated there really was no good argument not to require the improvements to be completed as approved. Mr. Reitz asked if there was some alternative.

Mr. Ayers stated that they could entertain alternative surface treatments such as a sand surface that would be less expensive. He stated that the owners had made certain commitments that needed to be completed.

Mr. Rigdon stated he hoped the Committee could see his predicament also. He stated when the building was constructed, completing that surface was not in their contract and they never got paid to do the job. He stated it was something the owner had agreed with the county to do and unfortunately now the owner was out of the picture and if his company was left having to pay for the improvements because of the maintenance bond they held, he stated it would devastate his company.

Mr. Ayers stated he felt it was a legal matter and he did not know why the owner would be out of the picture.

April 13, 2011

Mr. Reitz stated he felt there was a legitimate complaint between the developer and Edwards-Rigdon. He stated it was not something that the County was a party to. He stated although they were sympathetic to Mr. Rigdon's situation, on the other hand, there were ordinance requirements that needed to be met and there was a bond in place to assure those things were completed.

Mr. Rigdon stated that the bonding company would complete the improvements but require Mr. Rigdon to reimburse them. Mr. Rigdon stated that at the time he purchased the bond, he did not see any problems because Mr. Houser had indicated he would complete the improvements. Mr. Rigdon stated he was guilty of trusting someone.

Mr. Ayers stated that the necessary completion of the asphalt was inside the property and was not to the county's detriment but to the owner's detriment. He stated that would be the only reason he would consider doing something different but he did not know what the solution would be. He stated it still came down to legal recourse between Mr. Houser and Mr. Rigdon.

Mr. Salsman stated that the maintenance period would expire around the 25<sup>th</sup> of the month.

The members determined that they could not do anything administratively for Mr. Rigdon's situation.

Mr. Reitz stated that they could look at any less expensive alternatives Mr. Rigdon could present for completion of the asphalt surface.

The next matter for discussion was in regard to the **Brownsburg Baptist Church** project. Mr. Roger Salsman stated the original approval was in 2007 and they had asked for an extension of time of two years to obtain the building permit. He stated they had come back in 2009 and asked for an additional two years.

Mr. Reitz stated that some of the improvements had been done.

Mr. Salsman stated that the church had decided to install some of the infrastructure while they were designing the church. Mr. Salsman stated they had wanted to lower the bond amount and Mr. Salsman had discussed the situation with them. He stated that their original bond was for over \$400,000.00. He discussed what items had been completed. Mr. Salsman had then made some reductions in the bond amount but he had also determined some items that were not completed properly and those items still not completed. He discussed the current situation with the builder and church and that the builder could not now obtain a bond.

Mr. Reitz stated it was his understanding that they were asking the County to consider the improvements that were installed and accepted.

Mr. Salsman stated that the items pertaining to the church building had not been included in the reduced bond amount.

After further discussion, Mr. Reitz directed Mr. Salsman to draft a letter setting out the county's position to the parties involved and it would be reviewed.

There being no further business, the meeting was adjourned at 10:04 a.m.

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Don F. Reitz, AICP, Chairman