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A regular meeting of the Hendricks County Area Plan Commission was held on Tuesday, July 13, 2010 at 6:30 p.m. in Meeting Rooms 4 & 5 of the Hendricks County Government Center, 355 South Washington Street, Danville, Indiana 46122. Members present were: Mr. C. Richard Whicker, President; Mrs. Jo Ann Groves, Vice-President; Mrs. Sonnie Johnston; Mr. Jon Cain; Mr. Eric Wathen; and Dr. Russell Hodgkin. Member absent was: Mr. Brad Whicker. Staff members present were: Mr. Don F. Reitz, AICP, Secretary and Director of Planning; Mr. Tyler Starkey, Acting County Attorney; Mr. John Ayers, County Engineer; Mr. Brett Pickett, Deputy County Surveyor; Mrs. Cathy Grindstaff, Environmental Health Director; Mr. Eric Fazzini, Plan Technician; and Mrs. Gloria Watts, Recording Secretary.

There was a quorum present with six (6) voting members. Mr. Whicker then opened the meeting with the Pledge of Allegiance.

Mr. Whicker stated that the first order of business was approval of the minutes for the May 11, 2010 meeting.

There being no corrections or additions, Mrs. Groves made a motion to grant approval for the May 11, 2010 minutes.

Mrs. Johnston seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Whicker then stated that the first item on the agenda, **ZA 403/10: Matthew & Lori Hunt** had been withdrawn by the applicants.

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

MAP 729/10 (PRIMARY): GALYAN ESTATE SUBDIVISION; a 4-lot estate subdivision on 38.16 acres, Brown Township, S29-T17N-R2E, located on the north side of Maloney Road and west of Raceway Road, also known as 10772 Maloney Road, Brownsburg. (Banning Engineering, P.C.)

WA 229/10: MAP 729 GALYAN ESTATE SUBDIVISION; a Waiver (Sec. 11.05) of the Subdivision Control Ordinance for Section 6.03, Page 58, Street Design Standards. (Banning Engineering, P.C.)

WA 230/10: MAP 729 GALYAN ESTATE SUBDIVISION; a Waiver (Sec. 11.05) of the Subdivision Control Ordinance for Section 6.08, Page 67, Street Improvements. (Banning Engineering, P.C.)

WA 231/10: MAP 729 GALYAN ESTATE SUBDIVISION; a Waiver (Sec. 11.05) of the Subdivision Control Ordinance for Section 6.12, Page 72, Sidewalks, Pathways and Pedestrian Ways. (Banning Engineering, P.C.)

WA 232/10: MAP 729 GALYAN ESTATE SUBDIVISION; a Waiver (Sec. 11.05) of the Subdivision Control Ordinance for Section 6.10, Page 71, Curbs and Gutters. (Banning Engineering, P.C.)

Mr. Robert Staton of Banning Engineering, P.C. appeared on behalf of the applicant. He reviewed the history and location of the proposed project, which had previously been submitted a year and a half ago with an eight lot total and presently they were proposing four lots total. He stated they were also proposing an eighteen (18) foot wide double chip and seal private road on a dedicated easement as well as a proposed waiver of the sidewalk requirement. He stated they were in agreement with all of the staff conditions and recommendations of approval as set out in staff's letter dated July 6, 2010. He stated they were required to limit the pipeline easement which would need to be shown either as a blanket easement or modified to fifty (50) feet of width through Buckeye Pipeline's formal process.

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He stated that an ingress/egress easement and maintenance agreement would be required if Lot 3 planned on using the driveway for access. He stated that Mr. Mark Zuckerman, a member of the development team, was present and would answer any questions by the commission.

Mr. Mark Zuckerman with offices at 9510 North Meridian Street, appeared and stated he was part of the team that previously had met with the Plan Commission for the first submittal of this project proposing eight lots. He explained the items that had changed from the last submission. He stated the major change was from eight lots to four lots. He stated the road location would remain the same other than being shortened which had been changed due to the market dynamics of the current economy. He stated that ideas for a green subdivision had been retained. He stated the other reason for the smaller number of lots was to accommodate septic fields and secondary septic fields for each of the lots. He stated if the new plan was accepted, the old plan would be null and void.

Mr. Whicker then called for questions or comments.

Mr. Wathen asked if there was an issue with the existing septic field not being on the same lot as the house.

Mr. Zuckerman stated he did not believe there would be an issue as the area would be set aside in a specific easement that would provide the owner of Lot 2 the right to use that existing septic field and the backup field would be located on Lot 2.

Mr. Staton said that was the plan and it had been done before in other developments.

Mr. Fazzini stated that the easement was not specific to said lot owner and the adjoining lot owner could use it if needed.

Dr. Hodgkin asked if the owner of Lot 3 owned the secondary septic field and he asked if there would be conflict to repair or change the field in the future.

Mr. Zuckerman stated it would be part of the easement agreement between Lot 2 and Lot 3. He stated that if a change was needed, there was an area set aside on Lot 2 for the replacement field.

Mr. Whicker asked if the existing home on Lot 2 would be the only dwelling on Lot 2.

Mr. Zuckerman stated that was correct.

Mr. Whicker then asked about a gated entrance.

Mr. Zuckerman stated that was not part of the current proposal because they had worked out with staff to provide a new road within a public right-of-way and made the maintenance of the road privately maintained and any repairs would be the responsibility of the subdivision lot owners.

Mrs. Groves asked about any other changes to the previous plans. She stated that without the gated plan, there would be waste management trucks, mail trucks, etc. using the roadway.

Mr. Zuckerman stated that was correct.

Mr. Whicker asked for further questions or comments. There being none, Mr. Whicker opened the public hearing.

Mr. Don Eckert of 10932 East Maloney Road appeared. Mr. Eckert asked how many septic fields would there be.

Mr. Staton responded there would be four septic fields and that soil tests had been done.

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Mr. Eckert stated that was his only concern.

There being no one else signed up to be heard, Mr. Whicker closed the public hearing and called for further questions or comments. There being none, Mr. Whicker called for a motion.

Mr. Wathen then made a motion to grant primary approval for **MAP 729/10: Galyan Estate Subdivision (Primary)** subject to the following:

1. Conditions and recommendations in staff's letter dated July 6, 2010; and
2. Adoption of Estate Designation Findings per HCZO Section 11.3 (J) (5) and HCZO Section 11.3 (J) (3).

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Wathen then made a motion to grant approval for **WA 229/10: MAP 729 Galyan Estate Subdivision, Section 6.03, Page 58, Street Design Standards.**

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Wathen then made a motion to grant approval for **WA230/10: MAP 729 Galyan Estate Subdivision, Section 6.08, Page 67, Street Improvements.**

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Wathen then made a motion to grant approval for **WA 231/10: MAP 729 Galyan Estate Subdivision, Section 6.12, Page 72, Sidewalks, Pathways and Pedestrian Ways.**

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Wathen then made a motion to grant approval for **WA 232/10: MAP 729 Galyan Estate Subdivision, Section 6.10, Page 71, Curbs and Gutters.**

Dr. Hodgkin seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

The staff conditions and recommendations were as follows:

ESTATE DESIGNATION FINDINGS:

HCZO Section 11.3 (J)(5): The Plan Commission may confer the Estate designation by finding the following at the time of primary plat approval:

1. **The proposal is eligible for Estate designation.**

The Plan Commission finds that this proposal is, in fact, eligible for Estate designation as defined in HCZO Section 11.3 (C).

2. The proposal meets the purpose of the Estate designation.

The Plan Commission finds that the proposal meets the purpose of the Estate designation. It will discourage bland residential design through the application of standards superior to the minimum development standards of the zoning district, it will promote architectural variety and interest in residential neighborhoods through the use of varied architectural features on residences, and it will bolster the quality of neighborhood life through superior site design.

HCZO SECTION 11.3 (J)(3): Major plats receiving the Estate designation by the Plan Commission shall be a permitted use in that zoning district.

The Plan Commission finds that this proposal is a permitted use in the zoning district as a consequence of granting the Estate designation.

DRAINAGE CONDITIONS:

1. Subject to Drainage Board approval and the conditions of the County Surveyor.
2. Details are needed for the roadside drainage.

STAFF RECOMMENDATIONS:

1. All lots must follow the Estate Subdivision Architectural Standards in addition to any applicable requirements in the Hendricks County Zoning Ordinance and Subdivision Control Ordinance.
2. The applicant has requested a waiver of the Subdivision Control Ordinance (HCSCO) requirements of street design standards, street improvements, and curbs and gutters for the proposed internal road. The applicant stated in their written request that waivers of these requirements are needed as there is extreme terrain on this property. The applicant would also like to maintain the existing natural character of the land. Staff has no objection to the proposed request on the construction of the road which will be 18' wide chip and seal with no curbs and will be privately maintained. (HCSCO Chapters 6.03, 6.08, 6.10).
3. The applicant has also requested a waiver of the Subdivision Control Ordinance (HCSCO) requirement of sidewalks along both sides of the proposed internal road and the development side of Maloney road. The applicant stated in their written request that sidewalks were not proposed because of the low volume of traffic that this street will carry for the four lots. Staff has no objection to this request (HCSCO Chapter 6.12).
4. A 40 foot Naturally Sensitive Areas setback will need to be provided on the final plat for the ponds on Lots 1 and 2.

CONDITIONS OF APPROVAL:

1. A properly executed County/Owner Inspection Agreement must be provided prior to secondary approval with all appropriate fees paid prior to the start of any construction.
2. If this project is approved, MAP 725/08 (Primary): Galyan Estate Subdivision shall be null and void.
3. The Buckeye Pipe Line easement on this property is undefined or blanket in nature relative to easement width. Prior to secondary approval, the easement will either need to be shown as a blanket easement or modified to 50 feet of width through Buckeye's formal process.
4. Lots 2 and 3 are accessing the right-of-way via a shared driveway. Prior to secondary approval, an ingress/egress easement and maintenance agreement would be required if Lot 3 plans on using this driveway for their access.
5. Prior to secondary approval, a Type 2 bufferyard will need to be proposed along Maloney Road, and street trees will need to be proposed along the internal drive.
6. 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

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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.

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.
9. Development plan approval does not constitute approval of signage unless such approval is expressly granted by the Plan Commission as part of this development plan. Signage review and approval is typically carried out as a permitting process separate from development plan approval.
10. A State Plan Release is also required for multifamily, residential and non-residential (commercial and industrial) projects. In no way will a Development Plan Review be construed as a substitute or a waiver for these other required permits.

Mr. Whicker then stated that the next item was an appeal hearing for a minor subdivision approved by the Administrative & Plat Committee. He asked Mr. Reitz to present this matter.

APPEAL OF MIP 181/10 AND WA 226.10: An appeal of the Administrative and Plat Committee approval of an amendment to Minor Plat 181 (case number MIP 181/10) and of the associated waiver (case number WA 226/10) of the Subdivision Control Ordinance Section 2.11(1)(C) as authorized by the Administrative and Plat Committee Rules of Procedure, Section IX. (Donald & Bonnie Andrews & Diane Tutas).

Mr. Reitz referred the members to the information packets provided to them. He stated that appeals were not done very often and he reviewed the background information on the matter. He stated that the appeal involved an approval by the Plan Commission Administrative & Plat Committee for a minor plat amendment and waiver of the Subdivision Control Ordinance on June 9, 2010. He stated that said Committee was formed in 2005 as a consolidation of two separate committees, the Administrative Committee and a Plat Committee and as part of that consolidation, rules of procedure were adopted. He stated that one of those rules authorized the Administrative & Plat Committee to hear certain classes of cases which included minor plats and waivers of the Subdivision Control Ordinance. He stated that appeals of Administrative and Plat Committee decisions were by rule directed to the Area Plan Commission, which was a statutory requirement as well. He stated that as far as the Administrative & Plat Committee or the Area Plan Commission's review of plats was concerned, it was laid out clearly in state law which stated, "The Plan Commission shall determine if the plat or subdivision qualified for primary approval under the standards prescribed by the subdivision control ordinance." He stated that the Plan Commission had discussed this on a number of occasions and Mr. Steuerwald was consistent in advising that the Plan Commission's responsibility in hearing plats was ministerial in nature or their discretion was limited to reviewing the applications for compliance with provisions of the subdivision control ordinance and if the application met those requirements and it did comply with the provisions of the subdivision control ordinance, then the commission had to approve the application. He stated that the commission was accountable for decisions because findings of fact had to be established which

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documented the reasons for approval or denial. He stated that as far as the Plan Commission's review of subdivision control ordinance waivers, there was a series of legal tests in the subdivision control ordinance that had to be met in order for a body to approve the waiver and the Administrative & Plat Committee was accountable to document decisions in writing as findings of fact. He stated as far as the appeal on the current agenda was concerned, it was a business session item and not a public hearing and the Plan Commission had three actions it could take which were upholding the Administrative & Plat Committee's decision in total, upholding the Administrative & Plat Committee's decision in part by modifying some of the decision, or denying the Administrative & Plat Committee's decision and substituting its own. He then discussed background information on the case and the result of the hearing by the Administrative & Plat Committee on the amendment and 3:1 depth to width waiver of the approved minor subdivision. He discussed the two concessions made by the applicant as to moving his proposed drive away from the north property line and agreeing to buffer the adjoining Agal and Tutas properties with a fencing plan coordinated with the two property owners. He stated this was a voluntary commitment on the part of the applicant as there was no requirement in the subdivision control ordinance to provide buffering and landscaping between residential parcels in the AGR zoning district. He stated since the applicant met all of the relevant subdivision control ordinance requirements, the Administrative & Plat Committee approved the MIP 181/10 (Amendment) and adopted findings of fact. He stated that included in the motion was the property owner's commitment to coordinate fencing between his property and the Agal and Tutas properties and further that the Administrative & Plat Committee approved WA 226/10 and adopted findings of fact. He stated at the end of said hearing, some of the remonstrators present indicated that they would appeal the Committee's decision. He then discussed the basis for the Administrative & Plat Committee approvals for the amendment of the plat and the waiver of the 3:1 maximum depth to width ratio requirement. He stated that included in the information packet were letters and photos from Diane Tutas and Mr. & Mrs. Andrews showing the basis of the appeal. He stated that the decision on the matter by the Administrative & Plat Committee was consistent with statutory standards for approving a plat and the approval of the waiver was supportable under the waiver provisions of the subdivision control ordinance and based on precedent.

Mr. Whicker asked questions about the configuration of the applicant's property.

Mrs. Groves asked what the appealing parties were requesting that would be different from the approval.

Mr. Reitz stated he believed Mrs. Groves would need to question the appealing parties and he stated that he did not believe the appeal was based solely on the quality of the decision that was made because it was believed that the decision made was consistent with the statutory requirements.

Mr. Whicker asked Mrs. Johnston's opinion on the matter.

Mrs. Johnston commented that as a member of the Administrative & Plat Committee, she had approved the plat and waiver because she believed it met all of the rules and regulations and she did not believe the amendment and waiver would affect the property values of the adjoining property owners. She stated that other concerns by the adjoiners had no basis on the decision made. She stated the remonstrators also expressed concerns regarding privacy with the addition of another home on the property.

Mr. Whicker then stated that because the appeal was not a public hearing, he asked for a consensus from the members on whether they wished to hear testimony from the appealing parties.

After comments received from the members, Mr. Whicker stated there was a consensus to allow testimony from the appealing parties. Mr. Whicker then stated that the appealing parties would be given three minutes each to present testimony.

Mr. Don Andrews of 3065 East County Road 800 South appeared. Mr. Andrews protested the decision because he did not want another home placed on the rear of the applicant's property. He stated that he had purchased his home twelve years ago. He stated his property was landlocked and private.

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He stated that Mr. Trivett had placed a shed close to the property line and he had lost some of the trees that screened along his property line due to storm damage. He discussed the drainage restrictions on the properties. He stated that he felt the construction of a home directly across from his property and an access road would affect the security of his property and the valuable horses he owned. He stated he had suggested locating the access road on the opposite side of the applicant's property. He concluded by saying that he did not understand why someone would want to build where it was not wanted.

Mrs. Bonnie Andrews of 3065 East County Road 800 South appeared. She asked if the applicant were allowed to construct on the property, would the Commission consider requiring the applicant to relocate the access road to the east of his property instead of the west side. She stated she was concerned for the security of her property and her horses as well as the neighbors. She informed the Commission that the fence along her property was hot-wired on the inside. She stated that they would be required to put up warning signs regarding the hot-wired fencing.

Mrs. Diane Tutas of 8018 East County Road 375 East appeared. She stated that she had never encountered a problem with her neighbors for the seventeen years she had lived there, until now. She asked about the 3:1 rule which she believed was created to protect adjoining property owners. She discussed the problems with her tree line being cut down without her permission, trash within the tree line and harassment from her neighbors regarding same. She stated that she felt uneasy and wanted to see a fence put up. She requested an accurate survey be done to identify the property line so that the fence could be installed wherein she would be a joint owner. She stated she had provided the details on what type of fencing she desired and the removal of the existing fence that was put up without her permission. She concluded by saying she had a right to a peaceful existence and wished to have the 3:1 waiver explained again to her.

Mr. Whicker asked Mr. Reitz to go over the 3:1 rule.

Mr. Reitz stated that when the Trivett minor plat was approved in 1985, the 3:1 rule was waived at that time. He explained that the 3:1 requirement was a provision of the Subdivision Control Ordinance. He stated that ordinance was very similar to the zoning ordinance. He stated that in the zoning ordinance, there were provisions that could be waived under variance procedures in front of the Board of Zoning Appeals. He stated that the waiver procedure under the Subdivision Control Ordinance was similar and was heard by the Plan Commission. He stated that any ordinance involving land use generally had some safety valve built into it so that if a provision strictly applied to a particular case that would create a hardship, that provision could be waived or modified in some fashion. He stated that it was no different than the variance requirement. He stated the 3:1 requirement was generally to prevent the creation of big pipe stem lots and piano key lots along county roads. He stated that the waiver was especially built into that provision such that if there was some unusual topography or unusual geography or some other hardship generating constraints of development, the 3:1 provision could be waived. He stated the Administrative & Plat Committee did not waive that provision routinely but it had waived some in the past.

Mrs. Tutas asked why the 3:1 provision was written in the first place and was it not written to guard property values.

Mr. Reitz responded that the provision was created so as not to create a lot of piano key lots along county roads. He stated that, however, the waiver was created to take into account unique circumstances in particular cases where applying that provision may not be fair to the property owner.

Mrs. Groves asked Mr. Reitz to explain why the proposed property driveway could not be placed on the other side.

Mr. Whicker stated that he wanted to first allow Mr. Higbie to speak on behalf of the property owner.

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Mr. Tony Higbie of Higbie Land Surveying appeared and he stated that the septic system for the Andrews property was located near the back of the property next to the newly created lot of the Trivett minor plat and there were two thirty (30) foot easements through the new lot, as well as the location of the perimeter drains. He explained how all of these factors created the necessity to locate the proposed home where indicated on the lot. He explained that the new driveway would be located thirty feet off the property line. He stated that after meeting with the adjoining property owners, he felt they had come up with an agreement regarding the installation of fencing. He discussed the reasons for the 3:1 waiver being requested. He also discussed the location for the power poles.

Mr. Whicker asked for further questions or comments.

Mrs. Groves stated that Mr. Higbie had answered her question regarding the location of the proposed driveway because of his discussion on the necessary location for the new septic field.

Mr. Whicker asked about the stakes placed along the property line and did they represent an offset to the property line.

Mr. Higbie stated that the stakes were actually on the property line.

Mr. Whicker then stated that from Mr. Higbie's perspective, the property line had been identified.

Mr. Higbie stated that was correct.

Dr. Hodgkin asked as a Commission, were they required to approve or disapprove the administrative work or were they able to modify it.

Mr. Whicker stated that the Commission would be able to modify.

Mr. Whicker then stated to the remonstrators that he understood the emotion of the decision. He stated that he lived in the country and liked his privacy and he had acquired some amount of land around his property on three sides but across the road on property less than 100 feet away, it was possible for someone to construct a house. He stated that there was also property rights but those rights had rules, regulations and guidelines necessary to establish in this case, another lot, which was otherwise not subjected to emotional interpretation or subjective arguments. He stated so far he believed at this hearing, that was what he had been listening to. He stated he did not see any valid reason that the Administrative & Plat Committee did not approve the amended minor plat in a proper form.

Mr. Cain agreed with Mr. Whicker's assessment. He stated he believed that amendment was approved in the proper manner under the rules and procedures in place.

Mr. Whicker asked Mr. Higbie about the agreement made regarding the fence.

Mr. Higbie stated that they negotiated with Mr. and Mrs. Agal and they agreed to construct the fence past the tree line along the Agal property for privacy reasons and he explained how much farther along the property line the fence was to be constructed according to their agreement. He stated they also agreed to move the fence in two feet to allow Mr. Agal room to use his lawnmower along the fence line. He stated that it was also agreed with Mrs. Tutas to construct the fence so as to allow them to also have access along the tree line. He stated that Mrs. Tutas wanted to research the liability issues as well. He stated that ended their discussion with an agreement as to the type of fence. He stated as far as placement, Mr. Higbie felt it was easier to place it so as to be away from the tree line. He stated that he was also going to tie the new fence into Mr. Andrews' existing fence along the property line.

Mrs. Groves asked about the plan to plant trees along the proposed driveway.

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Mr. Higbie stated they had proposed that but Mrs. Tutas was not in agreement since there were already trees all the way along her west property line and across the north line. He stated that was the reason for the fence being placed instead of trees in that area.

Mr. Reitz stated that the placement of evergreen trees on the plans was part of the approval.

Mr. Higbie stated that could be changed at this meeting. He stated at the time the plans were drawn up, he had no idea there would be an agreement made to install a fence.

Mrs. Groves stated that the plans were approved with trees being planted.

Mr. Reitz stated that was part of the approved plat. He stated if they wanted to modify that in some fashion, subject to the approval of all property owners that could be done administratively.

Mrs. Groves then asked about the tree line and whether it was part of the approval.

Mr. Higbie stated yes, the trees shown were part of the approval and were located behind Mr. Andrews' property.

Mr. Whicker asked Mr. Reitz what was the understanding of what was needed to determine if the plat complied with the approved commitments from the applicant.

Mr. Reitz stated that would be done at the time of the recording of the plat and again at the time of issuance of a building permit or certificate of occupancy.

Mr. Whicker asked what was agreed to as far as the type of trees.

Mr. Reitz responded that the three to five foot evergreens and their distribution as shown on the plans were approved. He stated as far as the fence was concerned that would be between the multiple property owners as to the type, style and location.

Mr. Whicker asked if that wasn't an enforcement action.

Mr. Reitz stated that at some point, there would need to be an agreement between the property owners. He stated if there was not an agreement between the property owners, it would typically be an administrative decision on determining what would be a middle ground as to the location and type of fencing to be used.

Mrs. Tutas stated she was not able to hear Mr. Reitz's response.

Mr. Reitz repeated his remarks on the agreement between the property owners for the fencing and what would occur if there was not an agreement.

Mrs. Groves stated that around her property she had cornfields and she enjoyed that. She stated, however, that eventually that would change and she realized that. She stated when that change occurred, she would not be happy about it but she would learn to live with it. She stated that in areas where properties were close, as long as a property owner complied with the regulations in place for planning and zoning, then adjoining property owners could not encroach upon other property owner's decisions for what they placed on their own properties. She stated she felt in this case, the Subdivision Control Ordinance regulations had been complied with and she believed that Mr. Napier had tried to work with his neighbors to satisfy their concerns with the changes he was making for his property. She stated she would not want to change what the Administrative & Plat Committee had decided as she believed they had made an appropriate decision on the matter.

Mr. Whicker asked for further comments. There being none, Mr. Whicker called for a motion.

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He stated the motion would need to uphold the decision of the Administrative & Plat Committee unaltered and perhaps to uphold a part of that decision with modifications incorporated into the motion or to deny the decision of the Administrative & Plat Committee and deny the original petitioner's request for the minor plat amendment.

Mr. Cain then made a motion to uphold the decision of the Administrative & Plat Committee in total as to **MIP 181/10 (Amendment): Larry Trivett** and **WA 226/10: MIP 181 Larry Trivett (Amendment)**.

Mrs. Groves seconded the motion.

FOR – 6 – AGAINST – 0 – ABSTAINED – 0 –

Mr. Whicker stated the record would show the motion was carried unanimously.

Mr. Whicker stated that ended the regular agenda. He called for the Wishes to be Heard item next on the agenda.

OLD TWIN BRIDGES FARM ROAD CONSTRUCTION (AMY ELLIOTT/BILL OTTINGER)

Mr. Eric Fazzini discussed the nature of the request to be heard as to Lot 5 in the Old Twin Bridges Farm Subdivision. He stated the subdivision was located southeast of the intersection of County Road 500 North or Tilden Road and County Road 575 East west of the Town of Brownsburg. He stated that there was currently a house on the twenty acre lot and the applicant was considering subdividing it into a second lot for another residence. He stated that when the original subdivision was approved, there was a condition that if further subdivision occurred, two roads would need to be constructed and he indicated the location of those roads. He stated that staff had discussed the issues with the applicant and felt that the solution was to only construct a portion of the road. He stated that Lot 3 had been subdivided to create a Lot 3 and Lot 3A and at that time, the Plan Commission waived the road construction. He indicated on an aerial survey the location of the properties in question.

Mrs. Amy Elliott of the Comer Law Office then appeared. She stated that they had filed with the Board of Zoning Appeals to have two principal uses on the twenty acres. She stated that the intent was that the existing house would eventually be removed, leaving the proposed new home as the only residence remaining. She stated that in the event the existing house was not removed, then the property would need to be platted. She stated that they then realized there were road requirements and they determined not to proceed with the variance request knowing that eventual platting would require the construction of the roads. She stated they then continued the Board of Zoning Appeals hearing and in the meantime, thought they should move ahead with platting the property even though the required road construction remained. She stated they asked for this Wishes to be Heard meeting to get the Plan Commission's determination on the road issues. She stated that in 1993, Lots 3 and 3A were divided and at the time there was a Plan Commission report completed and she read part of that report as follows: "When Old Twin Bridges Subdivision was originally approved, a condition of approval stated that any future development would require the construction of a county road to County Road 500 North. It is the staff's understanding that the intention of the commission was to prevent future subdivision of these large tracts into many lots without providing additional access and was a consideration given to the existing homes in adjoining Pleasant View Estates. So the staff recommends that this condition be waived for the one lot and further recommends that any additional subdivision of this lot would require construction of the aforementioned roadway." She then stated that they would like to do the same thing that was done in 1993, that is, to take Lot 5 and allow it to be divided into one more lot as well. She stated that this would add another additional house and property that would access off the road. She stated, however, that from 1993, it seemed clear by the research done by the plan commission staff at that time that the concern requiring the road to be improved was that the large lots would be divided into many lots. She stated, however, that they were currently requesting only one additional lot and wished to have the Plan Commission's opinion on their proposed plan to see if it was a reasonable request. She stated also that there were a couple other issues, those being requiring the upgrade to county road standards and in

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order to have fifty feet of road frontage, they would dedicate an additional fifty by fifty feet to accommodate both lots.

Mrs. Groves asked how many homes would access the road.

Mrs. Elliott stated that there would eventually be four homes accessing the road.

Mrs. Johnston asked questions regarding the lots.

Dr. Hodgkin asked what the existing road looked like.

Mrs. Elliott stated it was a gravel drive, twelve foot wide.

Dr. Hodgkin asked if there was any drainage.

Mr. Bill Ottinger of Benchmark Consulting stated there were no drainage issues.

Mr. Wathen asked about the location of the cul-de-sac.

Mr. Ottinger pointed out the cul-de-sac location.

Mr. Wathen asked about an easement or right-of-way off of the cul-de-sac.

Mr. Ottinger stated that there was twenty-five feet on the south side of the common property line as a twenty-five foot road easement and on the north side of the common property line was a dedicated twenty-five foot right of way. He stated if the platting was to proceed into two lots, they would dedicate the other twenty-five foot of the half right of way as well as a fifty by fifty foot right of way coming into the lot to allow for an emergency turnaround and to allow for the road frontage requirement of fifty feet along a dedicated right of way.

Dr. Hodgkin asked what would be the approximate distance from the house located the farthest distance from the public road.

Mr. Ottinger stated 700 to 800 feet.

Mrs. Groves asked what type of road would be constructed.

Mrs. Elliot stated they would prefer to leave it as gravel.

Mr. Whicker stated he would not be against not enforcing the road requirement for the creation of the proposed extra lot. He stated that, however, it would not preclude a future plan commission from enforcing the provision to construct the road to County Road 500 North should the lots be subdivided.

Mr. Wathen agreed with Mr. Whicker's determination.

Mrs. Groves stated that she was in agreement with their plan to dedicate enough right of way to construct the road at a later date. She asked for confirmation that they were going to construct a turnaround for emergency vehicles.

Mrs. Elliott stated yes.

Mrs. Groves stated she did not want to waive future construction of the roads.

Mrs. Elliott stated that was not part of their request.

Mr. Ayers asked if they were proposing any improvements to the driveway now.

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Mr. Ottinger stated that they would dedicate the right of way and leave the road as is as they believed it would be functional for the four homes accessing it.

Mr. Whicker agreed with Mrs. Groves that the additional twenty-five foot right of way was a good thing. He believed the road could handle the four lots accessing it. He stated, however, that he did not make any determination as to whether the road should be improved as he felt that should be decided when the plat application was made. He stated at this meeting, they were not making that kind of determination.

Mrs. Elliott stated she understood Mr. Whicker's comments.

Dr. Hodgkin stated that he was worried if there were more houses in the future, there were concerns regarding school services to possible handicapped children residing there. He stated if the road was not solid enough or wide enough or constructed with a subsurface strong enough to withstand a school bus, then we should not be encouraging more houses when the situation might be marginal the way it stood currently. He stated at some point, the commission should state that the road was not adequate.

Mrs. Elliott stated that she felt the commission had given them good feedback to move ahead and she thanked them.

Mr. Wathen then commented that he felt if someone wished to place a house on a piece of property with a gravel road, they should be allowed to do so at their own risk.

Mr. Whicker then asked for anything else to be heard on the agenda.

Mr. Reitz stated that the members had received a draft amendment to the zoning ordinance in their packets concerning the wind farm noise standard which had been discussed at previous meetings. He stated that the commission had directed the staff to work out a proposed revised noise standard for their consideration. He stated there was no action required at this meeting but that the draft was for their information. He explained that the amendment would be taking the existing standard, which was that 55 dba could not be exceeded under any circumstances at the exterior of any occupied building in a non-participating landowner's property. He stated that the noise expert, Mr. David Wright, was recommending the dba standard be lowered to 50 dba and it be measured a different way using the LEQ standard, which was a continuous measurement over time, as opposed to the single measurement or discreet measurement and applying that technique in addition to specified certain standards of recording and sound instrumentation. He reviewed a chart showing how the LEQ standard was used in sound measurement.

Mr. Wathen asked what would happen if an applicant constructed a wind turbine facility and when tested, it failed to meet the sound standards.

Mr. Reitz stated that the noise modifications were done before construction began.

Mr. Whicker stated that was why he was concerned about getting the noise standard modified now. He stated he hoped with a good standard in place that would not happen.

There were further comments and discussion on modeling wind turbine facilities to meet the sound standards.

Mr. Reitz discussed the standard further and stated the staff would be presenting the ordinance for public hearing at next month's meeting.

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There being no further discussion, Mr. Whicker adjourned the meeting at 8:20 p.m.

Don F. Reitz, AICP, Secretary