



# LAPORTE COUNTY PLAN COMMISSION

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**ANNEMARIE POLAN**  
Building Commissioner

## LA PORTE COUNTY PLAN COMMISSION MINUTES

September 23rd, 2014

MEMBERS PRESENT:     RITA BEATY KELLY     JIM PRESSEL  
                                 MATTHEW BERNACCHI     RON HAMILTON, SR.  
                                 GLEN MINICH     HAROLD PARKER  
                                 WILLE MILSAP

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Doug Biege, attorney, Darlene Pavey, Secretary.

### PLEDGE OF ALLEGIANCE:

Glen Minich asked for a Motion for approval of the Agenda for this evening.

Willie Milsap said so moved. Jim Pressel seconded.

All approved. Motion carried 7-0.

Glen Minich asked for approval of the meeting minutes as presented.

Willie Milsap said so moved. Jim Pressel seconded.

All approved. Motion carried – 7-0.

a) Comes now **Wally Pritz** and respectfully petitions the La Porte County Plan Commission for preliminary approval of a Subdivision to be known as "Pritz Villas". The Petitioner is the sole owner of the aforementioned real property and desires to develop a fifteen (15) lot subdivision for senior housing town homes. The area included within the proposed Subdivision is served by municipal water and sewer. This property is located in Coolspring Twp., immediately north of Pahs Road, east of Woodland Avenue and County Road 900 West, west of Johnson Road and is zoned "R1C" and contains 4.65 acres.

Glen Minich asked for name and who he's representing.

Attorney Biege said that he heard from Tony Hendricks, Chairman of the Plan Commission today and he has a conflict of interest and he told him that he properly filed his form with the County and that's why he's not present tonight and he will not participate in the decision.

John Hendricks said that he's a consulting engineer with Hendricks & Associates, 512 Lincolnway, La Porte, Indiana

Mr. Hendricks said that he's pleased to present to you for preliminary approval a primary plat of "Pritz Villas", a subdivision in La Porte County. Mr. Hendricks said that it has been a long time since he's been able to say that.

Mr. Hendricks said that this is an economic development for a fifteen (15) lot subdivision and the land is currently zoned R1C as you can see on the first page. Mr. Hendricks said that on page 2 are the requirements for R1C. Mr. Hendricks said that the community would be an age restricted gated community with a private road.

Mr. Hendricks said that the requirements for the lots are seventy-two hundred (7200') square feet with sixty (60') foot of frontage and it's six point one (6.1) dwellings per acre. Mr. Hendricks said that the Tract is four point six five (4.65) acres, which means that they could have up to twenty-eight (28) dwellings. Mr. Hendricks said that they're proposing fifteen (15) lots.

Mr. Hendricks said that the lot size would be sixty-five (65') foot frontage and one-hundred fourteen (114') foot in depth and each lot will be approximately seventy-four hundred and ten (7410') square feet.

Mr. Hendricks said that these are single family detached homes that they're planning. Mr. Hendricks said that he thinks that in the announcement it said town homes, but these are single family lots with two or three bedroom, two car garage and a minimum of twelve-hundred (1200') square feet.

Mr. Hendricks said that they're planning on running a three (3) inch low pressure line for the sanitary sewer and the water will be supplied -- there is a water main that runs on the eastside of the property and they will be able to tap into that for Michigan City water and fire hydrants are required.

Mr. Hendricks said going to page three, the code requires no buffer zones for R1C as you can see in Item ©, but it does require residential street trees, one tree per lot. Mr. Hendricks said that the lighting regulations do not require for residential any lighting in the subdivision. Mr. Hendricks said that the sidewalks that they're proposing is to have a sidewalk on the west side of the roadway only, because there is nothing on the east side. Mr. Hendricks said that street lights are not required per section 17.04. in the code.

Mr. Hendricks said that there are no flood plains in the Tract; there are no map wetlands and the cost for sanitary sewer and water connected were approximately twenty-thousand (\$20,000.00) dollars.

Mr. Hendricks said that they may be phasing this subdivision into five phases.

Mr. Hendricks said that the storm sewer will run through the swales and then under culverts under all the driveways will store water down (inaudible) retention pond on the north end of the property.

Mr. Hendricks said that they're talking a private road built to county specs (even though it is private) and then a cul-de-sac in the back will be able to handle the fire trucks and the garbage trucks etc that will come down the road.

Harold Parker asked how much water will that hold – the storm sewer.

Mr. Hendricks said that he hasn't gotten into those details yet. That would come out in the construction drawings and into the storm water calculations. Mr. Hendricks said that everything does flow to the north through that property.

Mr. Hendricks said that page four (4) shows the county specs that the road would be built with two (2') foot gravel shoulders on it.

Mr. Hendricks said that the following just basically shows where the parcel is located just north of Pahs Road between – about half way between 900 west and Johnson Road.

Mr. Hendricks said that they will have more details showing the location – a more specific location. Mr. Hendricks said that zoning in the entire area is R1C.

Mr. Hendricks said that the last page is the actual primary plat itself. Mr. Hendricks said that there is a green built to the east – about a twelve (12') foot wide green belt and the two fire hydrants will be between lots 2 and 3 and lots 10 and 11.

Willie Milsap said that out of curiosity, you said it would be age restricted. Willie asked what the minimum age is.

Mr. Hendricks said that he believes that it is fifty-five (55).

Willie Milsap said that on page two you said street lights aren't required per section 17.04. Willie said that looking at the map its right across the street from the Michigan City High School and as you know there is always evening activities for the students. Willie said that reference to safety, would you think that would be nice to have lights as an option.

*This is a requirement*

Mr. Hendricks said that near the entrance maybe.

Willie Milsap said being that they're seniors, lights would definitely be appreciated.

Rita Beaty Kelly said that you mentioned it's going to be private roads. Rita asked Mr. Henderson if he's planning on the Home Owner's Association to take care of that private road.

Mr. Hendricks stated yes.

Jim Pressel said that on the plat it shows and you mentioned a two (2') foot gravel shoulder and then on 4.04, unless he's misinterpreting, it's showing a concrete shoulder. Jim asked if it is concrete or gravel.

Mr. Hendricks said that if the code is concrete they would go with concrete.

Glen Minich told attorney Biege before we go any further this would be a good time for you to give us the factors that we as the Commission would be looking at. Mr. Minich said that may change the questions that we're asking here. Mr. Minich said as far as concrete or gravel. Mr. Minich said that those are drainage issues and we're looking whether the rains going to try to retain it in the area, or have enough drainage that it will run off. Mr. Minich said that he doesn't think that is what we're looking at today.

Attorney Biege said that today is for primary plat approval. Attorney Biege said that we're really looking at conceptually the lot size, shape, addressing traffic flow, safety issues, extensions of availability of water and sewer. Attorney Biege said that next page if the Plan Commission approves primary plat approval, then we get into solid calculations on drainage issues, surface water runoff and the subdivision control ordinance has specific sections on design standards for each one of those factors, and that's when they get into making sure that the storm water runoff calculations are correct, that basins are the proper size based on the development.

Attorney Biege said that the Plan Commission can make directions and recommendations as to what they should examine while they're going through the process. Attorney Biege said that these designs are going to occur and go back to the Plat Committee again and then it will come back for final plat to the Plan Commission. Attorney Biege said that is when they will have all of the specifics. Attorney Biege said that it will not come back here until all the requirements that are set out in the subdivision control ordinance are met.

Glen Minich said that we all got in our packet a synopsis of the Plat meeting minutes that review this.

Attorney Biege said that the Plat Committee reviewed this and the persons involved were Matt Garritano from Tony Hendricks, Rich Brown, MS4, service water, Mitch Bishop, County Planner, Tony Mancuso, Health Department, Annemarie Polan, Building Commissioner and Dar Pavey. Attorney Biege said that all these offices reviewed these plans and made comments and suggestions and he thinks that you all should have a copy of this.

Attorney Biege said that is what the Plan Committee does. Attorney Biege said again, this is a primary review for basics conceptually. Attorney Biege said that all these entities will once again review the final plans when we have the specifics pursuant to the design standards that are set out in the Joint Zoning Ordinance and Subdivision Control Ordinance.

Glen Minich asked if we have any remonstrators for, or against this petition.

**REMONSTRATORS:**

Glen Minich asked for name and address for the record.

1. Christopher Willoughby of Braje, Nelson and Janes, here on behalf of James Strakowski, who lives at 8343 W. Pahs Road. Attorney Willoughby said realizing that this is a preliminary stage and there is probably a little more latitude than may be allowed in the future as we get a little more serious about the project, depending on what the overall commission's inclination is, he'd like to point out a couple technical deficiencies that he sees and mostly what he would presume for practical purposes. Attorney Willoughby said that number one is that Mr. Pritz is not the sole owner of this property and the property is in fact owned jointly with his spouse, and to the extent that there is a requirement that there be some indication that she is either a party to this petition, or otherwise consented to that.

Attorney Willoughby said that he would disagree with Mr. Hendricks' glossing over what is exactly proposed here. Attorney Willoughby said that the Petition that was filed before you said townhomes, was advertised as townhomes. Attorney Willoughby said that he doesn't know if you can go forward and then consider a different zoning in R1C, and he doesn't disagree that single family homes are allowed there, but the townhomes that were filed for as set forth in the Petition and advertised, he doesn't know if you can now go forward and consider single family homes unless somehow there is an amendment that he has missed out on to the Petition that is before you.

Attorney Willoughby said again, those are just technical deficiencies that he points out and asked that you consider.

Attorney Willoughby said overall with regard to the plan and the proposed project, his client's main concern is water runoff. Attorney Willoughby said that realizing that we're at a preliminary stage, we would certainly ask that you take a close look at that, either way if you are inclined to grant the Petition as submitted, it has been a serious problem in that area and he is sure you guys are up to speed on Pahs and Johnson Road problems in the past; as Mr. Hendricks said, water runs off to the north and his client owns some property to the north, so that is a significant concern as to what happens there.

Attorney Willoughby said that he knows you guys are a very thoughtful commission and that you would do that anyway, but he wanted to press upon the significance of that issue because his client certainly doesn't want to have his property – this project to be a detriment to his property.

Attorney Willoughby said lastly he would like to point out that Mr. Biege points out your decision criteria, but he struggles a little bit with the language of the ordinance as written. Attorney Willoughby said that in Section 4.03 of the subdivision control ordinance, sub section (g), it talks about compliance with standards and ordinance.

Attorney Willoughby said that it says that the Plan Commission shall determine if the subdivision plat qualifies for primary approval under the standards prescribed by this ordinance, including standards for – attorney Willoughby said that it gives four different items. Attorney Willoughby said that his point in bringing that to your attention is although the underlying policy of this is we don't want to have someone who wants to invest go spend tens of thousands of dollars to realize this property isn't going to go.

Attorney Willoughby said however, he doesn't think it is just as simple as you guys look at it – the color of the plat looks nice and it sounds like a good idea. Attorney Willoughby said that he thinks that you actually have to make some concrete decisions here and you are required to make written findings of fact. Attorney Willoughby said again, he brings that up as technicality and I know you will give it due consideration.

Attorney Biege said with all due respect, he knows Mr. Willoughby is doing his job, but he wants to make sure the record's clear on a couple of items. Attorney Biege said first of all, he just checked the notices and the notices do not indicate these are townhomes – attorney Biege said that they don't say either way. Attorney Biege said that they simply say there is an application for subdivision plat – that's adequate pursuant to the notice.

Attorney Biege said that Mr. Willoughby is correct that townhomes are referenced in the petition and he was waiting for that point to be clarified. Attorney Biege said that he doesn't think that there is any difference in the two and attached to the petition was a drawing. The distinction between a single family and townhome is only that they're adjoined. Attorney Biege said that that they're treated the same under RIC.

Attorney Biege said that as far as ownership business is concerned, he checked in the hard cards and if Mr. Pritz would verify that he does in fact own this with his wife; attorney Biege asked Mr. Pritz if he would verify that for the record.

Wally Pritz verified for the record that the property in question is in his wife's and his name and sole owners of the piece of property there.

Attorney Biege thanked Mr. Pritz.

Attorney Biege said that Mr. Willoughby's next point on the factors – yes, the factors are set out in the code and they're pretty much what he said. Attorney Biege said that the Plat Committee has already checked the lot dimensions, size and width, public ways and grades, water and sewer. Attorney Biege said that all of that has been checked, or that wouldn't have been in front of you today.

Attorney Biege asked Mr. Willoughby if he could give him a site – attorney Biege said he's not seeing that findings of fact and conclusions of law are entered until after final approval. Attorney Biege said that is how he reads the code. Attorney Biege told Mr. Willoughby if he reads it differently, we can certainly discuss that. Attorney Biege said that he's not opposed to drafting them, but he doesn't think that they're required or necessary at a primary plat phase.

Glen Minich asked if there is anyone else for or against that would like to speak about this.

Glen Minich asked for name and address for the record.

2. Rob Beckman, 8515 Pals Road and he doesn't know what the diagrams show that Mr. Hendricks handed you folks, but if you look to the west of the subject property, he owns the entire line on west side of the property – he and his daughter.

Mr. Beckman said he has a few quick questions that he needs clarification on. Mr. Beckman asked if these are two story town homes, or are they now single family one story homes. Mr. Beckman said that he's not sure what they are.

Mr. Beckman said that he has been informed by Mr. Pritz that they're one story single family homes. Mr. Beckman said that the second question he has, accordingly to what he's done – basic research here, this is a cul-de-sac and it's his understanding of the ordinances are that the cul-de-sac in this context can only be six-hundred (600') feet long, but it can go up to thirteen-hundred or fifteen-hundred and fifty the ordinance says with your permission.

Mr. Beckman said it does layout specifically what a cul-de-sac requires. Mr. Beckman said it requires a fifty (50') foot easement; it requires sidewalks on both sides; it requires a green space between what he would call the curbing and the sidewalk. Mr. Beckman was curious as whether or not those questions of the ordinance are going to be part of this preliminary plat approval, or are they already being authorized to build with a sidewalk on only one side and not have a fifty (50') foot easement.

Glen Minich said that it's his understanding that we're simply approving – we would either approve this as written and they would have to meet all standards of the code, unless we alternate the Motion.

Attorney Biege said that as far as the record's concerned tonight, there has been no request to vary from the design standards whatsoever.

Glen Minich told Mr. Beckman that the answer is yes and they will have to follow all design standards that you're reading and the code.

Mr. Beckman said that they just said that they were only going to put a sidewalk on one side and they were going to have a gravel road and not curbing. Mr. Beckman said that those are two entirely different things. Mr. Beckman said that curbing obviously reflect quantities of water flow; also demonical sizes that have to be ascertained. Mr. Beckman said that the holding pond, just like the one that is behind the apartment complex is in the center of a gigantic quarter section of full section of land. Mr. Beckman said that water has to go someplace and if you approve this tonight and it turns out that there is not geographically or physically a sufficient amount of size for that pond to hold the amount of rain generated in twenty-four (24) hours on a one-hundred (100) year flood, then you have an issue because you've already given them preliminary approval to a plot and a design.

Glen Minich said that he doesn't believe that is true. Mr. Minich said that the preliminary approval that we're giving just says that this concept looks like it can move forward. Mr. Minich said that we're not saying that it's possible, or it could be made fully in this context.

Attorney Biege said that we aren't even close to design requirements yet. Attorney Biege said so far the Commission has not made a decision, but since there is no request to vary from the design requirements, they will be subject to all design requirements set forth not only in the subdivision

control ordinance, but also the joint zoning ordinance and all the MS4 regulations when it comes to surface water.

Mr. Beckman said that when we get to that point, do you continue to give notice to all the adjoining property owners.

Attorney Biege said that notice will go out for the second plat approval phase; just like it did for this.

Mr. Beckman asked if they will have time to analyze this with their own engineers the quality of Mr. Hendricks engineering in advance.

Attorney Biege said that process doesn't call for that, but all the project plans will be available at the Building Commissioner's Office.

Mr. Beckman asked at what point.

Attorney Biege said that when they're complete. Attorney Biege told Mr. Beckman if he sends him a request for copies, then we can arrange.

Mr. Beckman said that at this point, the cul-de-sac requirements in the ordinance of a fifty (50') foot right-of-way, between curbing and sidewalk, hasn't been asked to be deviated from even though the presentation was a sidewalk on one side and a gravel front.

Attorney Biege said that there is no request to deviate from the design standards; they're not asking for any waiver or to detract from current design standards that exist in the code.

Mr. Beckman said that this is going to be built in five (5) phases, presumably three or four of the buildings, how are we going to ascertain whether or not the storm water system is going to work if they're allowed to build in three (3) phases. Mr. Beckman asked if we have to rely strictly on the math; is that the idea of the engineers and they don't get to see any of this in advance.

Attorney Biege said that is a good question. Attorney Biege said that there are two steps to this because MS4 reviews this. Attorney Biege said that they are in charge of storm water.

Mr. Beckman said that he has gone through this on an apartment complex and parking lots in front of the high school. Mr. Beckman said that he is well aware of MS4 and Mr. Brown.

Attorney Biege said that MS4 are not only for design standards, calculations for storm water runoff from the applicant, but also review from MS4. Attorney Biege said that if they're going to do it in phases – he is assuming – this in an assumption – and we can certainly make sure this happens, this review occurs for each phase.



Mr. Beckman said that he's not sure if it was the subdivision control ordinance, or zoning ordinance, or whether it was actually master plan conceptually for the county as written by Mr. Bishop, that the fifty (50') foot easement with a cul-de-sac road requirements are excluded from the size of the lots in order to calculate the total square footage of each lot. Mr. Beckman said that the fifty (50') foot easement -- the land under the road, is not considered part of the lot for the calculations, square footage, or the seventy-two hundred (7200) feet required for this major subdivision.

Attorney Biege said that is something that he's going to have to look at and calculate.

Mr. Beckman said that if he was to tell you to take that as a given -- Mr. Beckman asked attorney Biege if he wanted that cite.

Mr. Beckman asked Annemarie Polan, Building Commissioner, if she knew what the page is for the seventy-two hundred (7200) feet requirement.

Annemarie Polan, Building Commissioner, stated that is going to be Section 04.03.

Attorney Biege said that first of all, the square footage requirement is for lots outside of subdivisions.

Mr. Beckman said that somewhere in here in states that the portion within the roadway is not calculated for the square foot for the lot. Mr. Beckman said that he would assume that Mr. Hendricks knows that it is in there because he is showing his lots as one-hundred fifteen (115) as opposed to one-hundred sixty (160) plus, which is the width of the actual property. Mr. Beckman said that he assumes the reason he's showing these lots as one-hundred fourteen (114) instead of one-hundred sixty-four (164) is because the fifty (50') foot road is not considered only for the purposes of calculating the seventy-two hundred (7200) square feet.

Attorney Biege said lets clarify Mr. Hendricks. Attorney Biege asked Mr. Hendricks on his lot square footage calculation, does it include the road.

Mr. Hendricks stated no.

Mr. Beckman said that it stated that when you do your calculation for the size of the lot that you are not to include into the calculation any portion of the lot that lies within the right-of-way of the road.

Attorney Biege said that this is a private road. Attorney Biege said that he will have to check the road and he can certainly verify afterwards, but he's not sure if that applies here.

Mr. Beckman said that it does apply. Mr. Beckman said that he presumes that the reason that is excluded is because of the right-of-way from the calculation of the lot. Mr. Beckman said that on the extreme west side of this property there is a city water line -- it runs under the property. Mr. Beckman said that he knows that it is completely on the subject property, but it is parallel to the extreme west side. Mr. Beckman said that will carry he assumes if it is a Michigan City water

line, he would assume that there is an easement for egress access and so forth for that water line. Mr. Beckman said that if that is the case, then he would have to assume in reading your ordinance by analogy, that that width of easement for the city water line would also have to be excluded from the calculations for arriving at the seventy-two hundred (7200) square feet for each lot.

Attorney Biege said that he's going to have to check the code. He doesn't think that is true. Attorney Biege said that when we're talking about utility easements, he does not believe utility easements are excluded in the calculation and it appears, at least from the drawing, that this water line is contained within the setback lines.

Glen Minich told Mr. Beckman if he would give us these questions and then we will try to get you the answers from the appropriate persons.

Mr. Beckman said that he didn't want anyone to get into a situation where they didn't have their seventy-two hundred (7200) square feet.

Glen Minich said that is a very good question and we will bring that point up because we need to know exactly whether that water line is a part of the subdivision, privately owned, or whether it's going to be maintained by a municipality.

Mr. Beckman asked if anyone on the Board has physically gone and looked at this property yet. Mr. Beckman asked if they were able to see where the holding pond is going to be.

Mr. Beckman said that when they say there is going to be a three inch low pressure sewer line, is that from each house to main line and then up to the road.

Mr. Minich said that we will get that answer to you.

Mr. Hendricks said that they don't have the technical drawings. Mr. Hendricks said that is in the next phase.

Glen Minich asked Mr. Beckman if he has any further questions at this time.

Attorney Biege said that as these plans are drawn and as they go through the plat committee, this will all be available at the Building Commissioner's Office; it's just some of these things don't exist yet.

Glen Minich said that is why we're doing preliminary; we're looking at the whole picture; is this a good place for this senior subdivision; is it going to hurt somebody. Glen said that we want it done right and to the specs of the code.

Mr. Beckman asked how we make a senior subdivision. Mr. Beckman said that he couldn't find any kind – any reference to this in your zoning. Mr. Beckman said that he's wondering about age discrimination and other issues if you try to restrict property to a certain age classification, or a

certain race of person, or otherwise. Mr. Beckman said that he's not exactly sure. Mr. Beckman said that if it doesn't mean anything, we should say that.

Attorney Biege said that it does not exist, you're correct, but the Plan Commission, when they're looking at preliminary plat approval, it's just for the subdivision. Attorney Biege said that Mr. Pritz is calling it a "Senior Subdivision" and as far as discrimination issues or anything like that, that is his (inaudible) now. Attorney Biege said that the only thing the Plan Commission is reviewing is whether or not this subdivision application complies generally with the subdivision control ordinance and if it can move forward.

Mr. Beckman said that we wouldn't want anyone to think that we might discriminate age wise, through a vote of our Plan Commission authorizing those representations.

Attorney Biege said absolutely.

Mr. Beckman said we're basically here to decide only if this is the right thing for our neighborhood. Mr. Beckman said that if you look at an Aerial, it's all basically farms; there are single family homes on Pahs Road that basically parallel exactly where this project is going to be. Mr. Beckman said that each one of them are on a minimum of one acre, except for the one house that is on a third of an acre that sits right at the entry point of this property.

Mr. Beckman said that it is ironic that if he built a house on his land he would need two-hundred (200') feet of frontage and a minimum of one acre, but if he called it a subdivision and built it in phases, and only built two, he could have fifty (50') foot frontage and he could build them on a third of an acre. Mr. Beckman said that if phase two, three, four and five never happen, he doesn't know if he would end up getting to his holding pond in an area that has already been flooded and washed out Johnson and Pahs, costing the county an extraordinary amount of money

Mr. Beckman said that he seriously questions whether there is or is not wetlands in the area immediately adjacent to them, running through the center of that line. Mr. Beckman said that he knows that RMS4, Mr. Brown had some questions about it at your preliminary meeting.

Mr. Beckman said that Mr. Strakowski has lived out there for about fifty years give or take; he has been there his whole life and now he has an apartment complex built right on the side of his property as close to the line as you can, and now he's going to have another development on the other side of his property and maybe it would be preambles to your respective books about stopping urban sprawl and maintaining the character of neighborhoods and making it consistent with those properties already existing there. Mr. Beckman said that maybe those should be reviewed by the Commission.

Mr. Beckman thanked the Board.

Glen Minich said that there were a couple questions and he thinks at this point we should see if we can get a couple answers from Mr. Hendricks as far as the question was about the three inch sewer line; if it was continuous, or different sizes.

Mr. Hendricks said that the three inch sewer line would be a main that would go along the east side of the property and then each individual lot would tap into that; that main would then feed into the Michigan City Sanitary sewer that runs along Pahs road.

Glen Minich asked about the water line that is drawn on our picture to the west.

Mr. Hendricks said that water line is shown in the twenty (20') foot wide water line easement and the water would be maintained by the City of Michigan City; they would have that easement to be able to do that maintenance.

Mr. Hendricks said that he knows that we're here for the primary approval, but La Porte County has an engineer, Mike Yacullo who is also a professional engineer. Mr. Hendricks said that Mr. Yacullo has to review all these plans.

Glen Minich said that it all falls on all those agencies to make sure that it's in compliance with the code and regulations in this preliminary.

Glen Minich asked if anyone else would like to say anything about this.

Mr. Beckman said that it was on page 4.5 green called zoning ordinance. Mr. Beckman said that it was subdivision © Lot Area Calculations. Mr. Beckman said what calculations he was asking Mr. Biege about. Mr Biege said that it says lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake, river or stream.

Mr. Beckman said that he was trying to ascertain if the reason for that exclusion is because of the public road right-of-way and the failure of individual property owner to be able to use that right-of-way for any purposes than ingress/egress and the walk over whether or not that exclusion would also automatically (inaudible) common sense have to comply to an easement of twenty (20') feet of the water pipe. Mr. Beckman said that if in fact that is the case, then these lots are not one-hundred fourteen by sixty five because of the twenty (20') foot easement that is not useable for any purposes other than to walk across and cut the grass on back which would make the actual length for calculation "only" for the square footage requirement of seventy-two (7200) hundred, but make the lot then based on Mr. Hendricks's representation that it's twenty (20') feet, you would have ninety-four feet times sixty five and that would give you substantially less than seventy-two (7200) square feet for each lot.

Mr. Beckman said that he's not standing here asking you these questions implying that he's for or against this development, he's here as an adjacent property owner to make sure that all t's are crossed and I's dotted, laws complied with, ordinances complied with and that water does not come onto his land from this development. Mr. Beckman said that he has enough water to deal with that falls from the sky; he doesn't need it from fifteen roofs, fifteen garages, a fifty foot by thirteen or fourteen hundred foot road all dumping into the pond at the end of the cul-de-sac with only the perimeter of the cul-de-sac capable of being excavated for the pond and being told in advance that we'll do all the numbers later. Mr. Beckman said that he heard that once back in

the 1970's and it turned out to be a portion of it being government subsidized apartment complex.

Glen Minich said that these are great things to bring up because the developer is sitting right here and he knows what he's up against; he understands.

Glen Minich told Doug whether that easement becomes a part of that lot or not, that's to be interpreted by you.

Attorney Biege said that we're certainly going to look at that. Attorney Biege said that generally an easement does not exclude lot coverage. Attorney Biege said that the distinction between the utility easement and the public road way that's mentioned in the section you cited is this. Attorney Biege said that not all public roads are where they're supposed to be; that's why the road may be twenty-five (25') feet from the edge of the road to the center, but where the road actually is, often it's not where everyone thought it was. Attorney Biege told Mr. Hendricks that he could correct him if he's wrong on this, that's why we can't quote fifty (50') feet because the road's not always where it should be.

Glen Minich asked Mr. Willoughby if he has a question.

Mr. Willoughby said that even though this is preliminary, you can't just go forward because it sounds like a good idea. Mr. Willoughby said that there are some considerations that you have to follow. Mr. Willoughby said that the cite that he was referring to that requires Finding of Fact has to comply within this subdivision request. Mr. Willoughby said that it is found in section 4.03 under primary plat, subsection (f), which requires Findings of Fact as to compliance. Mr. Willoughby said that the compliance standards are set forth in subsection (g) of that same section, and then further conditions of approval are set forth in subsection (h).

Mr. Willoughby said that his request is that you follow this ordinance and he knows that Mr. Biege will and advise you accordingly. Mr. Willoughby said that his opinion is that you have to follow – it's more than it just sounds like a good idea, it's a little more substantive than that.

Attorney Biege asked Mr. Willoughby if he's requesting written Findings of Fact and Conclusions. Attorney Biege said that he wants to make sure that he's clear on what he's requesting.

Attorney Willoughby said that he's requesting that they follow the ordinance, which requires Findings of Fact by definition, those will be written at some point in your minutes. Mr. Willoughby said that they're required to make Findings of Fact as to compliance.

Glen Minich asked for name and address for the record.

Wallace Pritz, 9149 W. Summitt Court, Michigan City, Indiana. Mr. Pritz said that he would like to rebut Mr. Beckman's claim about water. Mr. Pritz said that if you look at this plot that you fellows have in front of you, you can see Mr. Beckman's daughter built a house and he doesn't have a big road frontage to get back to the house. If you look, you will see a channel

going down on the east side of his property and goes on down towards where the retention pond is, and he believes that it is up to Mr. Beckman to retain his water from his daughter's house and the property adjacent to his daughter's house. Mr. Pritz said that he understands that he owns the property just north of his daughter's house. Mr. Pritz asked if he followed a subdivided ordinance to divide these parcels into two pieces and possibly a third piece, or the fourth piece.

Glen Minich told Mr. Pritz that his point is made, but he doesn't think that it has anything to do with what we're doing right here.

Glen Minich said that all this needs to be looked at by the experts on this water because yes, our picture makes it look like there is water that comes towards you from his property.

Mr. Pritz said that is correct.

Glen Minich asked if there are any questions that the Board would like answered.

Matthew Bernacchi said that since the plat committee has met with MS4, we can take a little time for Mr. Biege to review the actual easements as far as utility easements and road easements and Mr. Willoughby is asking for Findings of Fact.

Matthew Bernacchi said that he would make a Motion that we table this for one month until we have all that information with MS4. Matt said that MS4 thought that the storm base and the plan to create would be sufficient and there is enough room, or they need to re-design this for maybe twelve lots instead of the fifteen. Matt said it seems to him that there is a lot of questions to be answered before we make a determination here.

Glen Minich was talking about the Findings of Fact.

Attorney Biege said not to worry about the Findings of Fact. Attorney Biege said that he understands what Mr. Willoughby is saying and he will summarize the factors. Attorney Biege said that MS4 has reviewed this at the Plat Committee.

Glen Minich said that if we decide to move forward and make a motion in a positive direction, the question is, because it is in there, where they talked about doing this in phases. Glen said that is still going to have to be done in accordance to the code. Glen asked if the code allowed for that.

Attorney Biege said that it does, but the construction plans – they will have those before they come here again, will require that surface water runoff for example be controlled in each phase. Attorney Biege said that is a big part in MS4's job. Attorney Biege said that the County Engineer and MS4 will review those for each phase. Attorney Biege said that if they come back here and only want to do the first one, the Plan Commission can also put limitations or requirements on further review.

Jim Pressel asked attorney Biege that this is going to be a private road and are they subject by our ordinance that they have to build to that specific standard with those specific setbacks as for

a county required road, because this will never be dedicated to the county; it's a gated community and it's totally private.

Attorney Biege said that he would have to research what the requirements are for the code, but the Plan Commission could also set this for additional requirements for planning.

Jim Pressel said that it is conceivable that when we get our technical drawings, the lot calculations that are in concern maybe taken care of because this is a private road, and not subject to the same standards.

Attorney Biege said that in the design phase, if the County Engineer doesn't like the design of the road, it's not going to come here and the Plan Commission can always say no if they don't like the road design.

Willy Milsap was referencing Rick Brown's statements in the Plat Minutes. Willy asked attorney Biege if he was in attendance.

Attorney Biege stated no.

Willy Milsap asked attorney Biege if he's comfortable with the last two paragraphs with the water runoff.

Attorney Biege said that he is because Rick Brown has already taken a look at it. Attorney Biege said that as they develop the plans for the houses, the lot dimension sizes, then Rick can do his calculations as to what's appropriate for runoff and where it goes. Attorney Biege said that Rick will absolutely be looking at this.

Glen Minich said that if this Petition was to be granted, and the point about senior housing and that being on the developer, is that something that we would probably want to exclude.

Attorney Biege said that he would not address it. Attorney Biege said whatever they decide to do with the population or ages with the population, is an issue for the developer. Attorney Biege said that the Plan Commission has no authority to decide the type, or the type of ages in a subdivision. Attorney Biege said that you are just simply deciding whether or not there is primary approval of the subdivision. Attorney Biege said that in fact he would recommend against mentioning it.

Glen Minich asked if anyone would like to make a Motion.

Rita Beaty Kelly made a Motion for a favorable recommendation for the preliminary approval for this subdivision known as "Pritz Villas".

Willie Milsap seconded.

Glen Minich asked Annemarie Polan, Building Commissioner, if she had a question.

Annemarie Polan stated no.

Glen Minich asked if there are any questions from the Board.

All approved. Motion carried. 7-0.

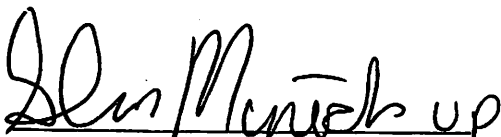
**b) Comes now Brian Feece and Killeen Feece, by attorney Brad Adamsky and request this Board grant their request to vacate an undeveloped roadway originally platted in Hudson Township in Hudson Lake Beach Highlands platted subdivision, and in support of said Petition alleges and states that petitioners seek to have a portion of a public right-of-way identified as Miller Lane/Lakeshore Drive adjacent to their property vacated. The public way has never been improved by any municipal or county entity, and the improved Miller Lane terminates at the petitioners' drive-way. This property is located at 5466 through 5475 Hudson Lake Beach, Hudson Lake, IN, Hudson Twp, zoned R1B.**

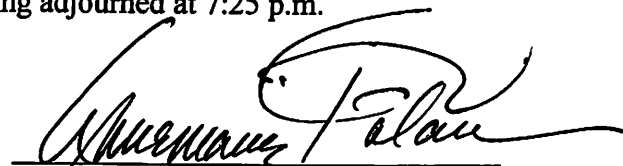
The Petition was continued to next month's meeting in order to give attorney Brad Adamsky time to draw up an agreement between the Feece's and their neighbors, Bruce Watson and Pamela Haas Watson, 7702 N. Miller Lane, New Carlisle access to the lake area.

Glen Minich said that next before us is the amendments to the La Porte County Zoning Ordinance and Zoning Maps.

Attorney Biege said that just as they were getting ready to send everything off to everybody, they had an issue on manufactured housing and mobile homes. Attorney Biege said once again he made some alterations to the code to clarify the definitions and he has one more section to correct and it will be ready for next month.

There being no further business this evening, meeting adjourned at 7:25 p.m.

  
GLEN MINICH, VICE PRESIDENT

  
ANNEMARIE POLAN, Rec. Secretary