



STAFF REPORT

CITY OF COLUMBUS PLAN COMMISSION (July 9, 2014 Meeting)

Docket No. / Project Title: MP-14-03 (Indian Hills Estates 4th Replat Minor Subdivision)

Staff: Jeff Bergman / Thom Weintraut

Applicant: John Counciller

Property Size: 3.26 Acres

Current Zoning: RS1 (Residential: Single-family 1)

Location: 3932 Shoshonee Drive in the City of Columbus

Background Summary:

The applicant has indicated that the proposed subdivision is for the purpose of subdividing the existing 3.26 acre property to create 2 new lots, for a total of three lots of 1 acre, 1.20 acres, and 1.06 acres, respectively. The property proposed to be subdivided is Lot 17 of Indian Hills Estates. Indian Hills Estates is a 17 lot subdivision originally platted in 1962. The currently proposed subdivision was filed with and processed by the Planning Department as a Minor Subdivision. It was found to meet all applicable requirements of the Columbus Subdivision Control Ordinance and was approved by the Columbus Plat Committee on March 20, 2014. An appeal of this approval was subsequently filed by a group of neighboring property owners. The Subdivision Control Ordinance designates the Plan Commission as having the authority to consider and decide appeals of Plat Committee decisions.

Key Issue Summary:

The following key issue(s) should be resolved through the consideration of this application:

1. Does the proposed subdivision comply with all applicable requirements of the Columbus Subdivision Control Ordinance, specifically Sections 16.24.225 (regarding the resubdivision of land) and 16.24.030 (regard cul-de-sac length)?
2. Have the Planning Department and Plat Committee correctly interpreted that, despite the possibility it will serve additional lots, the cul-de-sac street currently exceeding the maximum length permitted by the Subdivision Control Ordinance will not be extended and therefor is not at issue for this subdivision?
3. Have the Planning Department and Plat Committee correctly interpreted that the procedural provisions of the Subdivision Control Ordinance related to the long-term review and regulation of resubdivisions apply only to subdivisions initially approved under the terms of the current Ordinance (from 1982 to the present)?

Preliminary Staff Recommendation:

Approval of the proposed subdivision, consistent with the Plat Committee determination. The primary issue of the appeal is the interpretation that the procedural requirements of the current Subdivision Control Ordinance are not retroactive to subdivisions approved prior to its adoption in 1982. If the Commission makes an alternate interpretation it is recommended that an alternate date for the tracking of subdivisions over time be established.

Plan Commission Options:

In reviewing a request for *minor subdivision approval*, for which no modifications have been requested, the Plan Commission may (1) determine the subdivision is in compliance with the Subdivision Control Ordinance and approve the subdivision, (2) determine that the subdivision does not comply with the Subdivision Control Ordinance and deny the subdivision, or (3) continue the review to the next Plan Commission meeting. (Per Subdivision Control Ordinance Section 16.40.050)

Outstanding Technical Comments:

The following outstanding technical comments must be addressed by the applicant: None.

Current Property Information (entire subdivision site):	
Land Use:	Single-family Residential
Site Features:	Tennis courts, swimming pool, steep downward slope along the west property line
Flood Hazards:	None
Special Circumstances: (Airport Hazard Area, Wellfield Protection Area, etc.)	The property is located in the Approach Zone for a runway at the Columbus Municipal Airport, but the proposed subdivision and land use are not in conflict with the Airport Hazard Overlay regulations.
Vehicle Access:	Shoshonee Drive (Local Residential, Suburban)

Surrounding Zoning and Land Use (entire subdivision site):		
	Zoning:	Land Use:
North:	RS1 (Residential: Single-family 1) RS3 (Residential: Single-family 3)	Agriculture (crop production) Woods
South:	RS1 (Residential: Single-family 1)	Single-family Residential
East:	RS1 (Residential: Single-family 1)	Single-family Residential
West:	RS1 (Residential: Single-family 1)	Agriculture (crop production)

Interdepartmental Review:	
City Engineering:	No comments
City Utilities:	No comments
Parks Department:	No comments

MPO:	No comments
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History of this Location:

The relevant history of this property includes the following:

1. The subject property was first platted as Lot 17 of Indian Hills Estates, a 17 lot subdivision approved by the Columbus Plan Commission on September 5, 1962. At the time the property was located outside of the Columbus City Limits. The subdivision was approved via the City’s first Subdivision Control Ordinance, which was in effect from 1949 through 1968. As Columbus expanded, Indian Hills Estates was eventually annexed into the City.
2. There have been at least 4 resubdivisions of Indian Hills Estates since it was originally platted; 3 of those involved the transfer and re-transfer of property between lots 15 and 16, and 1 involved the reduction of a front building setback line on lot 9. None of these prior resubdivisions involved the creation of any new lots.
3. In 1999 the owner of Lot 17 (John Counciller) submitted an application for a proposed Minor Subdivision that subdivided the property and resulted in 1 new lot (Plan Commission Case #MP-99-11). That proposal was withdrawn by the applicant at the June 2, 1999 Plan Commission meeting. It had been noted by the Planning Department staff that the proposed subdivision would have violated the then Subdivision Control Ordinance limit of a maximum of 15 lots served by a single access point, exceeding that number by 1.
4. In 2010 the owner of Lot 17 (John Counciller) again submitted an application for a proposed Minor Subdivision that subdivided the property and resulted in 1 new lot (Plan Commission Case #MP-10-01). That subdivision request included 2 modifications from the requirements of the Subdivision Control Ordinance, (1) to waive the sidewalk requirement and (2) to allow 16 lots with access from a single cul-de-sac, exceeding the then maximum of 15 lots by 1. The request was withdrawn prior to its consideration at the March 10, 2010 Plan Commission meeting.
5. Also in 2010 the Planning and Engineering Departments completed the 1-year+ long process of drafting a new Columbus Thoroughfare Plan and corresponding updates to the Subdivision Control Ordinance. Among many other changes, those Subdivision Control Ordinance revisions increased the maximum number of lots serviced by a single cul-de-sac from 15 to 30. The Subdivision Control Ordinance revisions were adopted by the Columbus City Council on November 10, 2010.
6. In 2013 the owner of Lot 17 (John Counciller) again submitted an application for a proposed Minor Subdivision that subdivided the property and resulted in 1 new lot (Plan Commission Case #MP-13-10). That request was approved by the Columbus Plat Committee on October 24, 2013. The applicant did not execute that approval and it expired in January 2014.

History of this Application:

The relevant history of this application includes the following:

1. This application for a proposed Minor Subdivision dividing Lot 17 into a total of 3 lots was submitted to the Planning Department on March 10, 2014. It was approved by the Columbus Plat Committee on March 20, 2014, subject to several technical comments being addressed.
2. After revised subdivision drawings that addressed the outstanding technical comments were submitted by the applicant, the required public notice of the approval was provided on May 23, 2014.
3. On May 30, 2014 the Planning Department received an Appeal of the Plat Committee’s approval of the subdivision from adjoining property owners Mark Elwood and Angie May.

Planning Consideration(s):

The following site considerations, planning concepts, and other facts should be considered in the review of this application:

General Considerations:

1. The 17 existing lots in Indian Hills Estates range in size from approximately 1.39 acres (Lot #12) to approximately 3.26 acres (Lot #17 – the subject property). The average lot size in the neighborhood

is approximately 2.26 acres. The proposed subdivision would result in lots of 1 acre, 1.06 acres, and 1.26 acres. The RS1 (Residential: Single-family 1) zoning district, in which Indian Hills Estates is located, is the lowest density and largest minimum lot size residential district in the Zoning Ordinance intended for use in Columbus. The minimum lot size in this zoning district is 12,000 square feet (lightly larger than 1/4 acre).

2. The Appeal of the Plat Committee's approval of the minor subdivision is based on an assertion that the proposal does not comply with Subdivision Control Ordinance Section 16.24.225 (regarding the resubdivision of land) and Section 16.24.030 (regarding cul-de-sac length). The adjoining property owners have also expressed drainage concerns in their comments on the resubdivision of the land. Drainage issues are discussed separately below.

Subdivision Control Ordinance Section 16.24.255 Regarding Resubdivision:

3. Subdivision Control Ordinance Section 16.24.255 reads as follows:
 - A. *Procedure for Resubdivision. Whenever a land owner desires to resubdivide an already approved major subdivision plat, the land owner shall apply for the resubdivision using the same procedure prescribed for the subdivision of land.*
 - B. *For any resubdivision where the proposed changes may have an impact on the existing subdivision, the application shall include the signed consent of 75% of the owners of property in the existing subdivision. Such changes include the following:*
 1. *Any change in street circulation pattern or other significant change in a public improvement;*
 2. *The addition of one or more buildable lots;*
 3. *Any change in the amount of land reserved for public use or the common use by lot owners;*
 4. *Any other change which would have an adverse effect on the use and enjoyment of property in the existing subdivision.*
 - C. *The staff shall make a determination as to whether a proposed change will have a significant impact as defined in Subsection B. The staff decision may be appealed to the Commission.*
 - D. *Waiver. A property owner may request a waiver from the requirements of Subsection B. The Commission may waive the requirement for the consent of 75% of the property owners in the subdivision if it finds that the proposed change will not have a significant impact on the existing subdivision. The Commission, after receiving an application for resubdivision that includes an express request for waiver, shall consider the request after a public hearing. Notice of the hearing shall be given to interested parties as defined in the Rules of Procedure.*
 - E. *Covenants. Any new lots created by a resubdivision shall be subject to any covenants and restrictions that applied to the original subdivision plat.*
4. Over time, the City of Columbus has had 3 different subdivision control ordinances. The first was applicable from 1949 to 1968, the second from 1968 to 1982, and the third from 1982 to the present.
5. Indian Hills Estates was platted in 1962 under the 1949 subdivision control ordinance (Indian Hills was not in the City limits at that time, but the ordinance claimed a jurisdiction that included land within 2 miles of the City limits). That ordinance did not distinguish between "major", "minor", or other types of subdivisions nor did it include those terms. It also did not include any provisions governing resubdivision.
6. The 1968 subdivision control ordinance introduced the distinction between "minor" and "major" subdivisions and provided an alternate procedure for each. It did not provide any specific provisions regarding resubdivision.
7. Indian Hills Estates is not platted specifically as a "major" subdivision as no such term existed at the time of its platting. If it were to be proposed in its original design under the current subdivision control ordinance it would be considered a major subdivision. It would likely not comply with many of the design standards in the current ordinance, such as the sidewalk requirements, drainage requirements, etc. Also, some features of the subdivision drawing itself would be different. For example, the building setback lines would not have been shown on the drawing, but would instead reference the Zoning Ordinance through a notation.

8. The Subdivision Control Ordinance serves several purposes, including regulating the initial design of a subdivision, ensuring the adequate construction of public improvements, ensuring adequate documentation, and monitoring resubdivision for continuity of applicable regulations and record keeping.
9. The Planning Department has interpreted the adoption of a new subdivision control ordinance as resetting the resubdivision process requirements. This is primarily a matter of practicality related to (1) the need to address the different use of terms (“major”, “minor”, etc.) from one ordinance to the next and (2) providing a manageable resubdivision process for property owners, land surveyors, etc. Of greatest concern are subdivisions that occurred prior to any subdivision regulations such as the original plat of the City of Columbus which, like Indian Hills Estates, would be considered a “major subdivision” under the current regulations. The current ordinance is silent on the topic of its applicability to subdivisions that predate its adoption. It does not expressly indicate that its terms and processes are only to be applied to new subdivisions, nor does it provide for them to be applied to preexisting subdivisions. The current interpretation results in the provisions of Section 16.24.255 not being applicable to Indian Hills Estates. If the Plan Commission determines that the current interpretation is incorrect, the Commission should also supply a new interpretation to be applied jurisdiction-wide. The most likely other options would be interpretations that the resubdivision provisions are retroactive (1) to 1968, when the “minor” and “major” subdivision terms were introduced, (2) to 1949 when the City began regulating subdivisions, or (3) to all plats ever recorded.
10. In their appeal materials the adjoining property owners make references to the Indian Hills Estates covenants. Covenants are private agreements between property owners, typically created by the developer prior to the sale of subdivision lots and binding on those who purchase the lots in a given subdivision. Covenants typically establish regulations deemed to be in the mutual interests of the subdivision lot owners that are above and beyond the minimum standards of a zoning ordinance, subdivision control ordinance, and other city regulations. Covenants can typically address a range of topics from establishing more restrictive building setbacks, to creating standards for the design features of homes, to prohibiting the use of outdoor clothes lines, to restricting home-based businesses, etc. Covenants are agreements between the private lot owners, and the city is not a party to these agreements. Enforcement of covenants occurs through the legal action of the lot owners and does not involve the city. No changes to a subdivision plat or other action taken or approved by the city can alter covenants.
11. One specific concern expressed in the appeal was the effect of removing the originally platted 60 foot front building setback line from the plat drawing showing the proposed new lots. According to Brian Thompson, Chief Code Enforcement Officer for Bartholomew County, his office disregards any setback lines shown on a subdivision plat, as they are deemed either outdated or privately enforced, and instead applies the current setbacks specified by the Zoning Ordinance. New subdivision plats specifically exclude building setback lines in order to avoid confusion between government regulations and private covenants. The setback line shown on the original plat for Indian Hills Estates and referenced by the covenants would continue to be enforceable by the lot owners. This enforcement would most likely occur through the review of any new home plans by the architectural control committee established by the Indian Hills Estates covenants.
12. The adoption of the replacement Columbus Zoning Ordinance by the City Council in 2008 included the creation of the RE (Residential: Established) zoning district. This zoning district is primarily intended for use in older neighborhoods pre-dating the adoption of any City zoning or subdivision regulations. It requires any new homes to have lot sizes, lot widths, front setbacks, and living areas consistent with existing homes in the same area. The Indian Hills Estates lot owners might consider requesting that their unique subdivision be rezoned to the RE zoning district if they seek additional City involvement in maintaining their neighborhood’s current characteristics.

Subdivision Control Ordinance Section 16.24.030 Regarding Cul-de-sac Length:

13. The Columbus Subdivision Control Ordinance includes regulations effecting (1) cul-de-sac length and (2) the number of lots on a cul-de-sac. Cul-de-sac radius, grade, and other design features are also regulated. Subdivision Control Ordinance Table 16.24-1, by reference of Section 16.24.030, provides that local, suburban, residential street cul-de-sacs are limited to 650 feet in length and a maximum of 30 lots.

14. Indian Hills Estates' Shoshonee Drive, from which the subject property receives vehicle access, is a local, suburban, residential cul-de-sac. It is approximately 2,142 feet in length and currently serves 15 lots. The proposed subdivision would increase the number of lots served by this street to 17.
15. The proposed subdivision does not increase the length of Shoshonee Drive, which would be a violation of the Subdivision Control Ordinance. Further, it does not result in more than 30 lots being served from a single access point.
16. In recent months, the Columbus Fire Department has declined the opportunity to oppose two proposed subdivisions featuring cul-de-sacs with excessive lengths but fewer than 30 lots. Tipton Point Major Subdivision included a 1,165 foot long cul-de-sac serving 20 lots. The Plan Commission granted a modification of the Subdivision Control Ordinance requirements to permit this cul-de-sac length. Stonehaven potentially included a 987 foot long cul-de-sac serving 24 lots (this option was abandoned in favor of a through street preferred by the applicant).
17. In addition to cul-de-sac length, Shoshonee Drive does not comply with the current Subdivision Control Ordinance in the following ways: it is only 20 feet wide, rather than the required 21 feet wide; it does not include sidewalks; it does not have curbs; its street trees do not meet type and spacing requirements; etc. These features are pre-existing and similar conditions are found throughout Columbus. They are a product of changing Subdivision Control Ordinance standards over time and different periods of the City's development. The current Subdivision Control Ordinance provisions are not triggered unless such streets are to be extended or nonconformities are to be expanded.
18. Subdivision Control Ordinance Section 16.24.030 is titled "Design Elements for New Streets".
19. Subdivision Control Ordinance Section 16.24.010(B) indicates that Minor Subdivisions, such as the proposed Indian Hills Estates 4th Replat, are required to (1) dedicate right-of-way consistent with the current Subdivision Control Ordinance and (2) construct sidewalks along the public street frontage of all new lots. The Subdivision Control Ordinance does not require existing streets to be brought into compliance with the current regulations as the result of a Minor Subdivision.

Drainage:

1. The adjacent property owners have indicated that several lots in Indian Hills Estates drain under Shoshonee Drive and then west across a natural valley on the southern portion of Lot 17. The adjacent property owners have expressed a concern that grading or future home construction on the proposed new Lot 19 may obstruct drainage for others. The contours in the area, as shown on the Bartholomew County GIS system, show a natural valley on Lot 16, south of the proposed location of Lot 19, which would carry water from east to west. There are no known drainage easements in this area [on either Lot 16 or Lot 17 (the subject property)].
2. The Columbus City Engineer has indicated that she has "looked at this site and there currently is no public drainage easement in this area, therefore, if a drainage problem is created due to new development it would be a private issue as its not public land."

Columbus – Bartholomew County Planning Department
Subdivision Application



Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County Joint District

Docket No.: MP-14-03

Subdivision Application:

Subdivision & Application Type: Major - Concept Approval Major - Primary Approval
 Minor (Primary & Secondary Approval) Agriculture Administrative

Proposed Subdivision Name: INDIAN HILLS Estates Four Acre Plot

Applicant Information:

Name: John Cosaceller
Address: 3932 Shoshone Drive Col. In. 47203
(number) (street) (city) (state) (zip)
Phone No.: 350-7295 Fax No.: _____ E-mail Address: _____

Property Owner Information (the "owner" does not include tenants or contract buyers):

Name: Same
Address: _____
(number) (street) (city) (state) (zip)
Phone No.: _____ Fax No.: _____ E-mail Address: _____

Property Information:

Property Size: 3,26 ~~acres~~ or _____ square feet.
Township: Columbus
Address: 3932 Shoshone Drive Col. In. 47203
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, distance from nearest intersection, etc.):

Existing Number of Parcels: 1 (includes total number of lots, parcels, blocks, etc.)
Proposed Number of Parcels: 3 (includes total number of lots, parcels, blocks, etc.)

Professional Land Surveyor Information:

Name: E. R. Gray & Associates P.C.
Address: P.O. Box 1357 Columbus In. 47202
(number) (street) (city) (state) (zip)
Phone No.: 372-4398 Fax No.: 372-2175 E-mail Address: _____

Notification Information (list the person to whom all correspondence regarding this application should be directed):

Name: Same
Address: _____
(number) (street) (city) (state) (zip)
Phone No.: _____ Fax No.: _____ E-mail Address: _____

Applicant's Signature:

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

X John D. Couneller 3-10-2014
(Applicant's Signature) JOHN D. COUNELLER (Date)

Owners' Signature (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, if required by the Plan Commission Rules of Procedure, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete. **Note: All property owners must sign this application.**

X John D. Couneller 3-10-2014
(Owner's Signature) JOHN D. COUNELLER (Date)

X Diana Jean Couneller 3-10-14
(Owner's Signature) DIANA JEAN COUNELLER (Date)

(Owner's Signature) (Date)

(Owner's Signature) (Date)

Indian Hills Estates Fourth Replat Minor Subdivision

PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 9 NORTH,
RANGE 6 EAST LYING IN COLUMBUS TOWNSHIP, BARTHOLOMEW COUNTY, INDIANA
SHEET 1 OF 2

PROPERTY DESCRIPTION

LOT NUMBERED 17 IN "INDIAN HILLS ESTATES" AS RECORDED IN PLAT BOOK "F", PAGE 23 IN THE OFFICE OF THE BARTHOLOMEW COUNTY RECORDER.

SURVEYOR'S STATEMENT

I, ENOCH R. GRAY, III, HEREBY STATE THAT I AM A PROFESSIONAL LAND SURVEYOR, LICENSED IN ACCORDANCE WITH THE LAWS OF THE STATE OF INDIANA; THAT TO THE BEST OF MY KNOWLEDGE, THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION, IN MAY OF 2014; THAT ANY CHANGES FROM THE DESCRIPTION APPEARING ON THE LAST RECORD TRANSFER OF THE LAND CONTAINED IN THE PLAT ARE SO INDICATED; THAT ALL MONUMENTS SHOWN THEREON ACTUALLY EXIST OR WILL BE INSTALLED. I MAKE NO REPRESENTATION, EXPRESSED OR IMPLIED, AS TO THE SUITABILITY OF THIS REAL ESTATE FOR THE CONSTRUCTION OF BASEMENTS.

E.R.G. III # 5.19.14

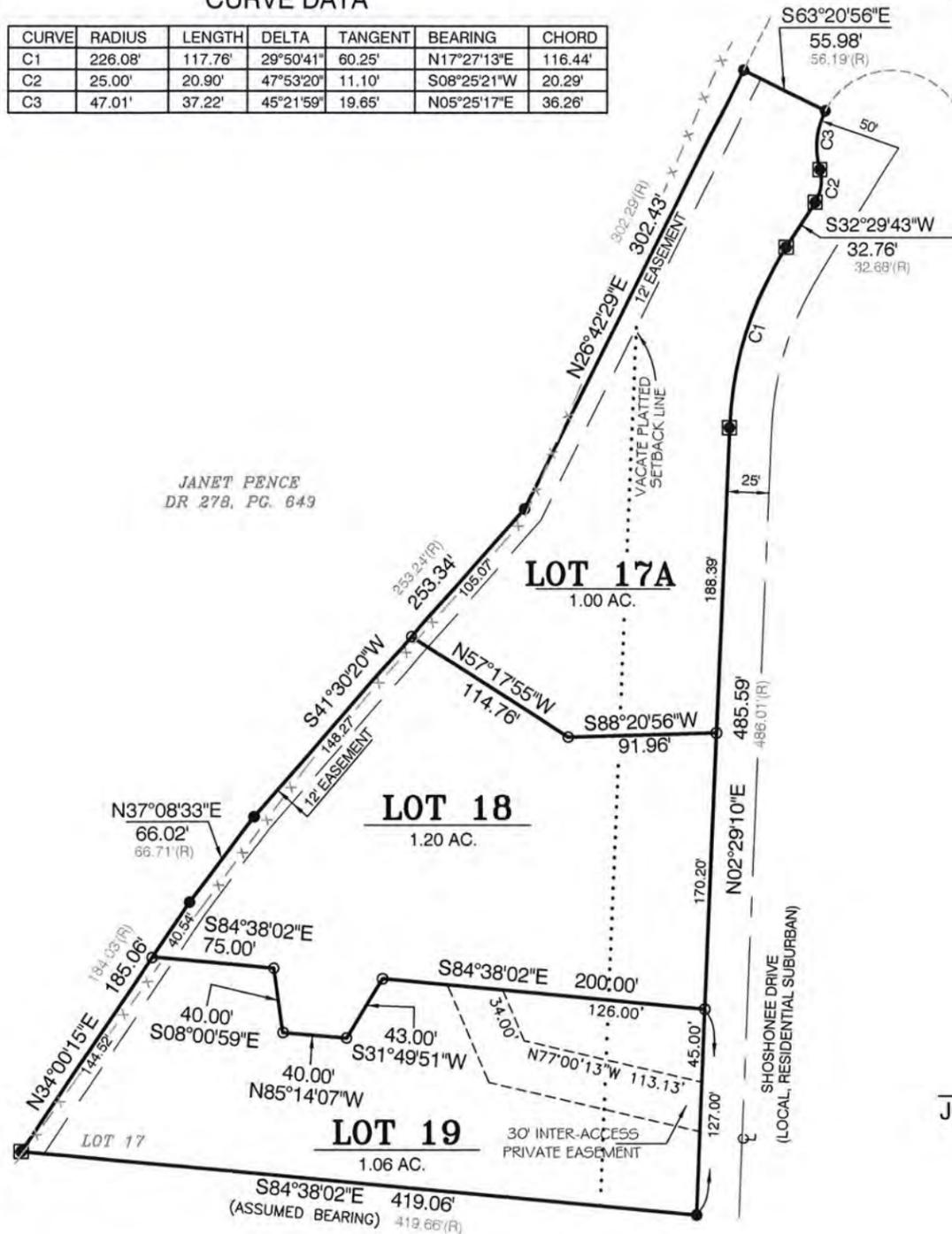
ENOCH R. GRAY, III LS #0516 DATE

I AFFIRM, UNDER PENALTIES OF PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.
ENOCH R. GRAY, III



CURVE DATA

CURVE	RADIUS	LENGTH	DELTA	TANGENT	BEARING	CHORD
C1	226.08'	117.76'	29°50'41"	60.25'	N17°27'13"E	116.44'
C2	25.00'	20.90'	47°53'20"	11.10'	S08°25'21"W	20.29'
C3	47.01'	37.22'	45°21'59"	19.65'	N05°25'17"E	36.26'



ACREAGE TABLE

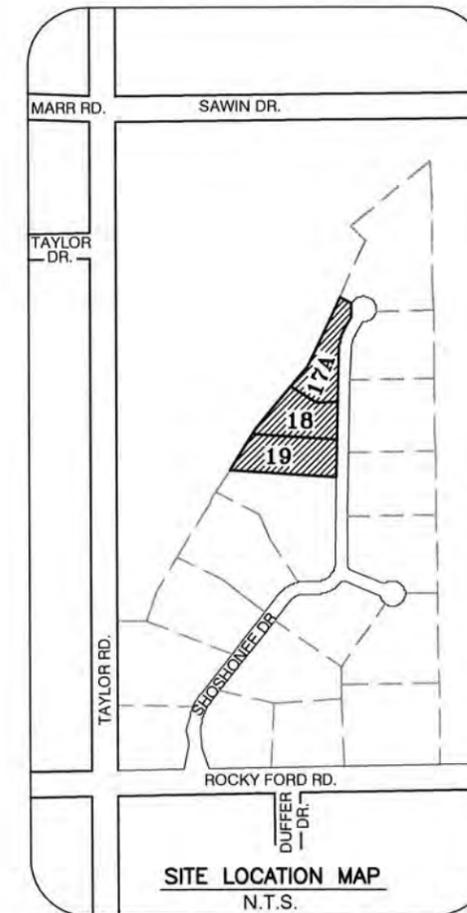
LOT 18	1.20 ACRES
LOT 19	1.06 ACRE
LOT 17A	1.00 ACRE
TOTAL	3.26 ACRES

LEGEND

- 5/8"x30" REBAR AND CAP SET THIS SURVEY
- ◼ FOUND 1" PIPE (ORIGINAL MON.)
- FOUND 5/8" REBAR (ORIGINAL MON.)
- R RECORD DIMENSION
- F FIELD MEASUREMENT
- VACATE PLATTED SETBACK LINE
- x - EXISTING FENCE

03-96-09-220-000.400-005

JOHN D. COUNCELLER & DIANA JEAN COUNCELLER
INSTR. #96-7778



JOB #14101



E.R. GRAY
& ASSOCIATES
PROFESSIONAL LAND SURVEYING
AND CONSULTING

E.R. GRAY III, L.S.
PRESIDENT

P.O. BOX 1357
COLUMBUS, INDIANA 47202
BUS. 812-372-7398 FAX 812-372-2175

Indian Hills Estates Fourth Replat Minor Subdivision

PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 9 NORTH,
RANGE 6 EAST LYING IN COLUMBUS TOWNSHIP, BARTHOLOMEW COUNTY, INDIANA
SHEET 2 OF 2

OWNERS' CERTIFICATE

WE THE UNDERSIGNED, JOHN D. COUNCELLER AND DIANA JEAN COUNCELLER, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED AND SUBDIVIDED, AND DO HEREBY LAY OFF, PLAT AND SUBDIVIDE, SAID REAL ESTATE IN ACCORDANCE WITH THE WITHIN PLAT.

THIS SUBDIVISION SHALL BE KNOWN AND DESIGNATED AS "INDIAN HILLS ESTATES FOURTH REPLAT MINOR SUBDIVISION", CONSISTING OF THREE LOTS NUMBERED LOT 17A, 18, AND 19 CONTAINING IN ALL 3.26 ACRES.

CLEAR TITLE TO THE LAND CONTAINED IN THIS SUBDIVISION IS GUARANTEED.

THE SETBACK LINES SHALL BE DETERMINED BY THE REGULATIONS OF THE COLUMBUS, INDIANA, ZONING ORDINANCE OF CURRENT ADOPTION.

THERE ARE STRIPS OF GROUND SHOWN ON THIS PLAT AND MARKED EASEMENT, RESERVED FOR THE USE OF PUBLIC UTILITIES AND SUBJECT TO THE PARAMOUNT RIGHT OF THE UTILITY OR CITY TO INSTALL, REPAIR, MAINTAIN OR REPLACE ITS INSTALLATION.

ALL DRAINAGE EASEMENTS IDENTIFIED ON THE PLAT ARE SPECIFICALLY AUTHORIZED TO BE USED FOR DRAINAGE PURPOSES. ALL GRADES SHALL BE MAINTAINED AS CONSTRUCTED. ADDITIONAL CUT AND FILL WORK WITHIN DRAINAGE EASEMENT AREAS IS PROHIBITED UNLESS AUTHORIZED BY THE ENGINEERING DEPARTMENT

THERE IS A 30' INTERACCESS PRIVATE EASEMENT SHOWN AND MARKED ACCORDINGLY. SAID EASEMENT IS INTENDED TO BE PRIVATE IN PERPETUITY, AND THERE IS NO OBLIGATION FOR ANY GOVERNMENT ENTITY TO ASSUME ANY RESPONSIBILITY NOW OR AT ANY FUTURE TIME. THE ACCESS IS FOR THE USE OF LOT 18 AND 19, AND MAINTENANCE, INCLUDING SNOW REMOVAL IS TO BE SHARED EQUALLY BY THE OWNERS OF SAID LOTS.

LOT 17 IN "INDIAN HILLS ESTATE" IS HEREBY VACATED BY THIS PLAT.

LOTS 17A, 18 AND 19 ARE SUBJECT TO THE "DECLARATION OF COVENANTS AND CONDITIONS AND RESTRICTIONS" AS RECORDED IN "INDIAN HILLS ESTATES."

WITNESS OUR HAND AND SEAL THIS 10th DAY OF March, 2014.

John D. Counciller
JOHN D. COUNCELLER
Diana Jean Counciller
DIANA JEAN COUNCELLER

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE, PERSONALLY APPEARED JOHN D. COUNCELLER AND DIANA JEAN COUNCELLER, WHO ACKNOWLEDGE THE EXECUTION OF THE FOREGOING INSTRUMENT AS THEIR VOLUNTARY ACT AND DEED FOR THE PURPOSES THEREIN EXPRESSED.

WITNESS MY HAND AND NOTARIAL SEAL THIS 10th DAY OF March, 2014.

Mark L. Sandeja
NOTARY PUBLIC
Bartholomew
COUNTY OF RESIDENCE

May 19, 2017
MY COMMISSION EXPIRES



SURVEYOR'S REPORT

PREPARED FOR JOHN D. AND DIANA JEAN COUNCELLER, OWNERS OF RECORD OF THAT REAL ESTATE DESCRIBED IN INSTRUMENT NUMBER 1996-7778; BEING LOT 17 IN "INDIAN HILLS ESTATES" RECORDED IN PLAT BOOK "F", PAGE 23 IN THE OFFICE OF THE BARTHOLOMEW COUNTY RECORDER. SUBJECT PROPERTY IS LOCATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 9 NORTH, RANGE 6 EAST, SITUATED IN COLUMBUS TOWNSHIP, BARTHOLOMEW COUNTY, INDIANA. THE PURPOSE OF THIS SURVEY IS TO LOCATE THE CORNERS OF SAID REAL ESTATE.

IN ACCORDANCE WITH THE INDIANA SURVEY STANDARDS AS DEFINED IN INDIANA ADMINISTRATIVE CODE 865 IAC 1-12-1 ("RULE 12"), THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS SURVEY AS A RESULT OF:
VARIANCES IN THE REFERENCE MONUMENTS;
DISCREPANCIES IN RECORD DESCRIPTIONS AND PLATS;
INCONSISTENCIES IN LINES OF OCCUPATION;
AND RANDOM ERRORS IN MEASUREMENT (RELATIVE POSITIONAL ACCURACY).

THERE MAY BE UNWRITTEN RIGHTS ASSOCIATED WITH THESE UNCERTAINTIES. THE BEARING SYSTEM UTILIZED ON THIS SURVEY IS ASSUMED. ALL MONUMENTS SET OR FOUND THIS SURVEY ARE WITHIN 4" OF THE GROUND SURFACE, EXCEPT AS NOTED BELOW. ALL DIMENSIONS ARE FIELD MEASUREMENTS UNLESS OTHERWISE NOTED.

FINDINGS OF FACT:
MONUMENTS MARKING ALL CORNERS WERE FOUND AS SHOWN ON THE DRAWING DURING SURVEYS COMPLETED IN 1999, 2009, 2010, AND 2014. ALL MONUMENTS ARE ORIGINAL OR CONTROLLING MONUMENTS BY COMMON REPORT OF LOCATION, HISTORY, AND CHARACTER. FENCE WAS LOCATED NEAR THE WEST LINES AS SHOWN ON THE DRAWING.

THEORY OF LOCATION:
THE EXTERIOR LINES ARE ESTABLISHED ON THE FOUND ORIGINAL AND CONTROLLING MONUMENTS. THE NEW LINES ARE ESTABLISHED AS DETERMINED AND REQUESTED BY THE OWNERS.

SUMMARY:
AS A RESULT OF THE ABOVE OBSERVATIONS, IT IS MY OPINION THAT THE UNCERTAINTIES IN THE LOCATIONS OF LINES AND CORNERS ESTABLISHED ON THIS SURVEY ARE AS FOLLOWS:
DUE TO VARIANCES IN AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS: ±1 FOOT.
DUE TO DISCREPANCIES IN THE RECORD PLATS AND DESCRIPTIONS: NONE OBSERVED.
DUE TO INCONSISTENCIES IN LINES OF OCCUPATION: FENCE NEAR THE WEST LINES MEASURES ±7 FEET EAST TO ±15 FEET WEST OF SAID WEST LINE.

THE RELATIVE POSITIONAL ACCURACY OF THE CORNERS OF THE SUBJECT TRACT ESTABLISHED THIS SURVEY IS WITHIN THE SPECIFICATIONS FOR A "SUBURBAN" SURVEY (PLUS OR MINUS 0.13-FOOT PLUS 100 PARTS PER MILLION) AS DEFINED IN I.A.C. 865.

A SEARCH FOR EASEMENTS OF RECORD IS NOT TO BE IMPLIED BY THIS SURVEY. UNLESS OTHERWISE STATED, UTILITIES AND IMPROVEMENTS WERE NOT LOCATED BY THIS SURVEY. ZONING COMPLIANCE IS NOT EXPRESSED OR GUARANTEED BY THIS SURVEY. **THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH.**

NOTICE TO SUBJECT LAND OWNERS: THE ADJOINING LAND OWNER MAY HAVE UNWRITTEN RIGHTS TO THAT LAND OUTSIDE OF ANY FENCE OR OCCUPATION LINES, NEAR THE PERIMETER OF YOUR LAND, THAT YOU MAY OR MAY NOT BE OCCUPYING. BEFORE REMOVING ANY FENCES, I RECOMMEND THAT YOU CONSULT WITH AN ATTORNEY. ADDITIONALLY, I RECOMMEND THAT YOU CONSULT WITH AN ATTORNEY IN REGARDS TO THE UNCERTAINTIES NOTED IN THIS REPORT. CONTACT THIS OFFICE IF YOU HAVE ANY QUESTION.

PRIMARY APPROVAL

UNDER AUTHORITY PROVIDED BY IC 36-7-4-700, SUBDIVISION CONTROL, AND ANY AMENDMENTS THERETO, THIS PLAT WAS GIVEN PRIMARY APPROVAL BY THE CITY OF COLUMBUS, INDIANA AS FOLLOWS:

APPROVED BY CITY PLAT COMMITTEE AT A MEETING HELD MARCH 20, 2014

CHAIRMAN - JOHN HATTER

SECRETARY - THOMAS A. WEINTRAUT, JR. AICP

VOID UNLESS SECONDARY APPROVAL IS RECEIVED BY: _____, 20_____.

SECONDARY APPROVAL

ALL CONDITIONS OF PRIMARY APPROVAL HAVE BEEN MET AND THIS PLAT IS GRANTED SECONDARY APPROVAL.

APPROVED BY THE PLANNING DEPARTMENT _____, 20_____.

JEFFREY R. BERGMAN, AICP, PLANNING DIRECTOR

VOID UNLESS RECORDED BY _____, 20_____.

AUDITOR'S CERTIFICATE

THE REAL PROPERTY HAS BEEN DULY ENTERED FOR TAXATION AND TRANSFERRED ON THE RECORDS OF THE AUDITOR OF BARTHOLOMEW COUNTY. THIS

THIS _____ DAY OF _____, 20_____.

BARBARA J. HACKMAN, BARTHOLOMEW COUNTY AUDITOR

RECORDING CERTIFICATE

RECORDED IN PLAT BOOK "F", PAGE _____, THIS _____ DAY OF

_____, 2014 AT _____ O'CLOCK _____ M.

INSTRUMENT NO. _____, FEE PAID _____.

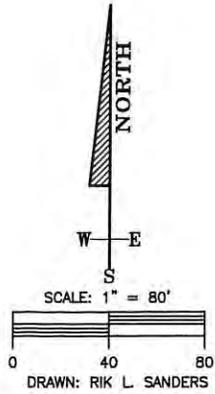
A NOTATION HAS BEEN MADE ON "INDIAN HILLS ESTATES " AS RECORDED IN PLAT BOOK "F", PAGE 23.

ANITA L. HOLE, BARTHOLOMEW COUNTY RECORDER

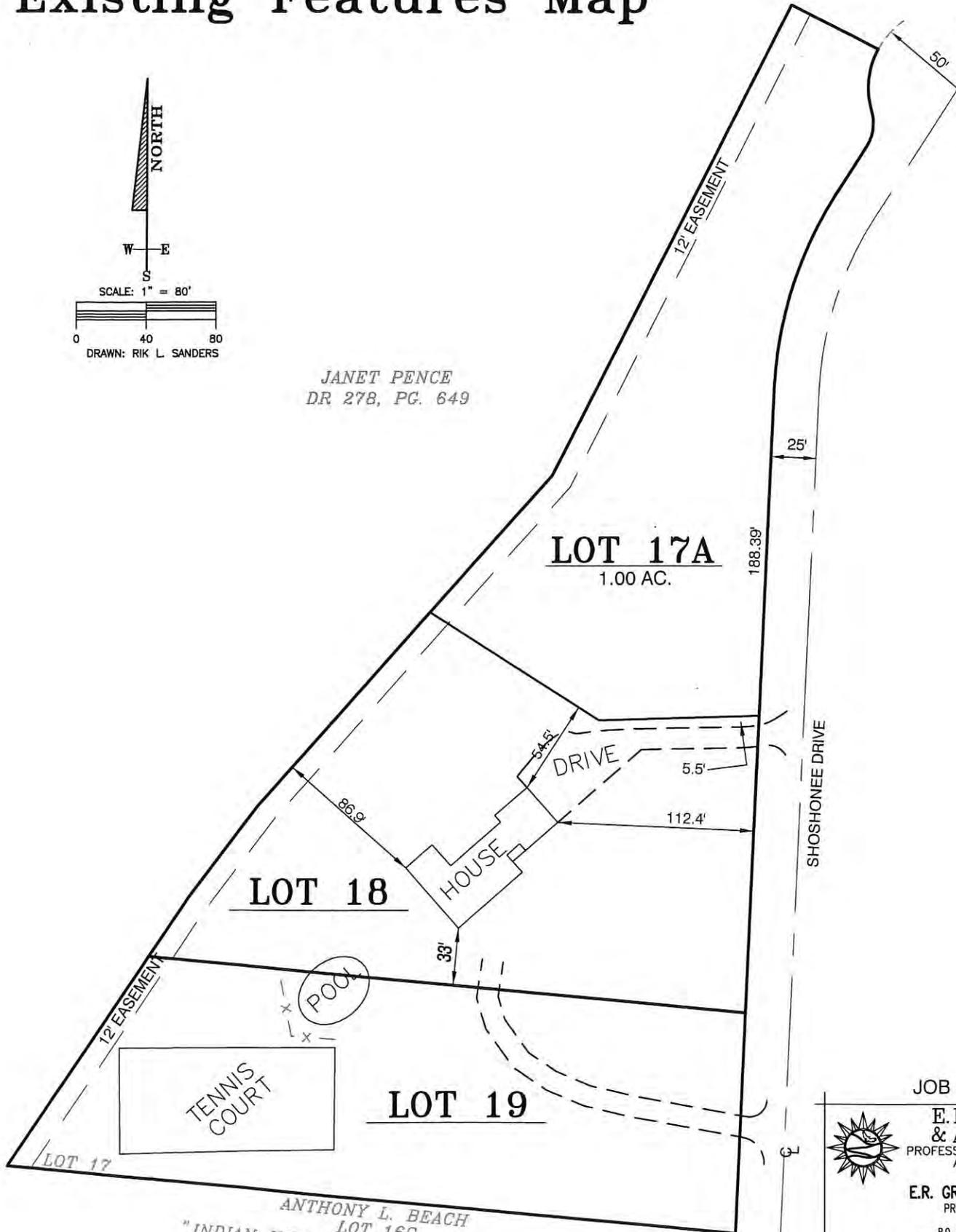
JOB #14101
**E. R. GRAY & ASSOCIATES**
PROFESSIONAL LAND SURVEYING AND CONSULTING
E.R. GRAY III, L.S.
PRESIDENT
P.O. BOX 1357
COLUMBUS, INDIANA 47202
BUS. 812-372-7398 FAX 812-372-2175

Indian Hills Estates Fourth Replat Existing Features Map

MARSHA N. DAUGHERTY
LOT 1 ESTATES
"INDIAN HILLS ESTATES"
PB "F", PG. 23



JANET PENCE
DR 278, PG. 649



ANTHONY L. BEACH
LOT 16C
"INDIAN HILLS REPLAT OF LOTS 15C & 16B"
PB "Q", PG. 100B

JOB #14101



**E. R. GRAY
& ASSOCIATES**
PROFESSIONAL LAND SURVEYING
AND CONSULTING

E. R. GRAY III, L.S.
PRESIDENT

P.O. BOX 1357
COLUMBUS, INDIANA 47202
BUS. 812-372-7398 FAX 812-372-2175

Columbus – Bartholomew County Planning Department
Appeal of Plat Committee Decision

RECEIVED
MAY 30 2014
BY: EP + SB

Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County Joint District

Docket No.: MP-14-03

Date of Plat Committee Decision: 5.24.14 Date of Appeal: 5.30.14

Appeal of Plat Committee Decision:

Proposed Subdivision Name: Indian Hills Estates Fourth Replat Minor Subdivision

Contact Information for the Person Filing the Appeal:

Name: Mark Elwood & Angie May (see attached)

Address: _____
(number) (street) (city) (state) (zip)

Phone No.: _____ Fax No.: _____ E-mail Address: _____

How would you prefer to receive information? (please check one): E-mail Phone Fax Mail

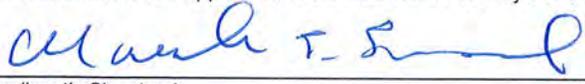
Appeal Basis:

I believe that the decision of the Plat Committee was contrary to the requirements of the subdivision control and/or zoning ordinance for the reason(s) described below:

Ordinance Section Number: _____ Description of Alleged Plat Committee Error:
See attached for details

Applicant's Signature:

The information included in and with this appeal is completely true and correct to the best of my knowledge and belief. I understand that it is my responsibility to provide all evidence necessary to prove that the Plat Committee decision was in error. I understand that this appeal must be filed within 10 days of the date of the Plat Committee decision letter.


(Applicant's Signature)

5/29/14
(Date)

more signatures
on back

- 1) Angie May 3931 Shoshonee Drive
- 2) Darren Wildman 4041 Shoshonee Drive
- 3) Tom & Christine Vujovich 3531 Shoshonee Drive
- 4) Don Crouse 3532 Shoshonee Drive
- 5) Donnette McGee 3632 Shoshonee Drive
- 6) Mark Foster 4340 Arrowhead Lane
- 7) Brett Crusier 4331 Arrowhead Lane
- 8) Ed Rivera 3652 Shoshonee Drive
- 9) Marcia Daugherty 4041 Shoshonee Drive
- 10) Tony Beach 3822 Shoshonee Drive
- 11) Tim Barker email 3831 Shoshonee Drive
(Toyota)
- 12) Tom Marshall email 3631 Shoshonee Drive

From: Thomas Marshall <thomasm@sioortho.com>
Subject: Councillor division
Date: May 30, 2014 6:46:14 AM EDT
To: "dickymcgee@comcast.net" <dickymcgee@comcast.net>

Hi Dick. I want to register my opposition to the proposal by Mr. John Councillor's proposed subdivision of his Indian Hills property. This was boy promulgated to my knowledge and I feel it would have detrimental effects on my property and the entire neighborhood. Should you have any questions please let me know. Tom Marshall

Sent from my iPad

From: "Barker, Tim" <Tim.Barker@tiem.toyota-industries.com>
Subject: Indian hills subdivision
Date: May 29, 2014 9:17:27 PM EDT
To: "dickymcgee@comcast.net" <dickymcgee@comcast.net>

Per our discussion this evening. Toyota is opposed to the proposed rezoning of property within the Indian Hills Estates Subdivision. We do not support the changes requested by John Counsiler to subdivide one lot into three and changing the building setback to less than sixty feet. We believe these changes will have a negative effect on our residential property located in the subdivision.

Tim Barker

Sent from my iPhone

Bergman, Jeffrey

From: tom.vujovich@gmail.com
Sent: Friday, June 27, 2014 12:35 PM
To: Bergman, Jeffrey; Angie May; Mark Elwood
Subject: Indian Hills/Counselor

Jeff:

I will be out of town when the Plan Commission meets to discuss John's request for a subdivision of his property. The request is not consistent with the covenants and expectations that all residents of Indian Hills had when they purchased their property. I don't know what makes this request different from the one John proposed several years ago which, I believe he withdrew. I can appreciate that he may feel burdened by the maintenance required on his lot since it is probably the largest in the subdivision. However, sub dividing may provide a benefit to John but none to the rest of the property owners. Since the request is not consistent with the covenants or the original plat, and since there is no benefit to be had by the other property owners, I would ask that the Commission reject this request.

Tom Vujovich.
Sent from my Verizon Wireless BlackBerry

Addendum to: Appeal of Plat Committee Decision

Proposed Subdivision Name: MP-14-03: Indian Hills Estates Fourth Replat Minor Subdivision

Date: 5/30/14

Contact Information for the Person Filing the Appeal (info provided for two points of contact):

Name: Mark Elwood

Address: 3722 Shoshonee Drive, Columbus, IN 47203

Phone No.: 812-350-1230 Email: mark.elwood@elwoodstaffing.com

How would you prefer to receive information? (please check one): Email

Name: Angie May

Address: Lot address: 3931 Shoshonee Drive, Columbus, IN 47203 (Current mailing address: 3900 Lakeside Dr. Columbus, IN 47203)

Phone No.: 812-343-9192 Email: angie.r.may@gmail.com

How would you prefer to receive information? (please check one): Email

Appeal also is submitted by the following Lot Owners of Indian Hills Estates
(see signatures on application cover sheet)

Lot No.	Name
1	Marsha Daughtery
2	Darren Wildman
3	David and Angela May
4	Tim Barker (for Toyota email approval)
5	Mark and Wendy Foster
6	Brett and Tonya Cruser
7	Charles and Vickie Pein
9	Christine and Tom Vuyovich
10	Thomas Marshall (email approval)
12	Don Crouse and Geraldine Peel
13	Donnette and Dick McGee
14	Eduardo & Elizabeth Rivera
15	Mark & Wendy Elwood
16	Anthony Beech

The above listed lot owners respectfully appeal the decision of the Plat Committee was contrary to the requirement of the subdivision control and/or zoning ordinance for the reason(s) described below.

Ordinance Section Number: 16.24.225 Resubdivision of land

Description of Alleged Plat Committee Error: As cited in section 16.24.225-B.2, we believe that the proposed addition of one or more buildable lots should have required signed consent of 75% of the owners of property in the existing Indian Hills Estates Subdivision. Additionally, 16.24.225-B.4 "Any other change which would have an adverse effect on the use and enjoyment of property in the existing subdivision" should have also required signed consent of 75% of the owners. Dividing this lot into three

lots is contrary to the spirit in which the neighborhood was originally founded in 1962 and in which it has been maintained. The covenants were written to require substantially larger setbacks than required by the standard city ordinance because this neighborhood was intended to offer a sense of privacy and country-type setting, yet be near town. The cul-de-sac was established to minimize traffic and create a safer environment. Home owners in this neighborhood have invested substantially in their residences and property to cultivate and continue these characteristics and make it a desirable place to live. Allowing the size and shape of lots proposed in the minor subdivision replat would strongly detract from the existing environment that has been created. Given that more than 75% (presently, 14 of 17 Lot owners have signed, and the other two were not able to be reached in the timeframe required for submitting this appeal) of lot owners have signed this appeal to prevent the minor subdivision approval, we believe that this decision to grant primary approval was in error. Therefore, we are appealing that decision according to 16.24.225-C "The staff shall make a determination as to whether a proposed change will have a significant impact as defined in Subsection B. The staff decision may be appealed to the Commission." The entire section is included below for reference.

Section 16.24.225 Resubdivision of land

A. Procedure for Resubdivision. Whenever a land owner desires to resubdivide an already approved major subdivision plat, the land owner shall apply for the resubdivision using the same procedure prescribed for the subdivision of land.

B. For any resubdivision where the proposed changes may have an impact on the existing subdivision, the application shall include the signed consent of 75% of the owners of property in the existing subdivision. Such changes include the following:

1. Any change in street circulation pattern or other significant change in a public improvement;
2. The addition of one or more buildable lots;
3. Any change in the amount of land reserved for public use or the common use by lot owners;
4. Any other change which would have an adverse effect on the use and enjoyment of property in the existing subdivision.

C. The staff shall make a determination as to whether a proposed change will have a significant impact as defined in Subsection B. The staff decision may be appealed to the Commission.

D. Waiver. A property owner may request a waiver from the requirements of Subsection B. The Commission may waive the requirement for the consent of 75% of the property owners in the subdivision if it finds that the proposed change will not have a significant impact on the existing subdivision. The Commission, after receiving an application for resubdivision that includes an express request for waiver, shall consider the request after a public hearing. Notice of the hearing shall be given to interested parties as defined in the Rules of Procedure.

E. Covenants. Any new lots created by a resubdivision shall be subject to any covenants and restrictions that applied to the original subdivision plat.

Ordinance Section Number: 16.24.225 Resubdivision of land

Description of Alleged Plat Committee Error: In section E. Covenants, it describes a requirement that a resubdivision shall be subject to any covenants and restrictions that applied to the original subdivision plat. The proposed replat shows "vacate platted setback line" on Lots 17A, 18, and 19. This is in violation of the Covenants.

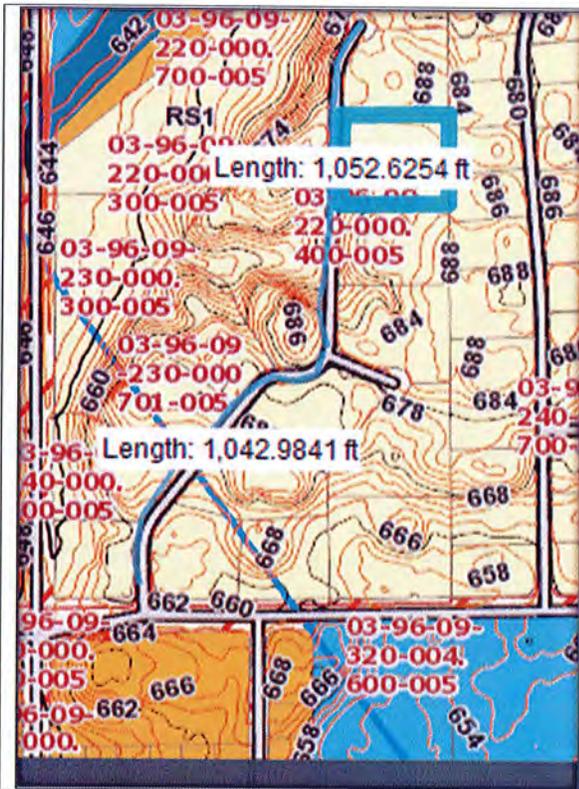
Ordinance Section Number: 16.24.030 Street design standards

Description of Alleged Plat Committee Error: Section 16.24.030 B. Design Elements for Streets Table 16.24.1. Originally, when the Indian Hills Estates subdivision was built, the maximum number of lots was only 15. With the increase in the new subdivision control ordinance to 30 lots, the maximum length of the cul-de-sac was set to 650 ft. Part of the reason for the maximum length is due to the need for safety and to create a maximum distance that emergency vehicles would have to travel to

reach a home. We believe that the proposed replat does not meet the criteria for 650 ft. for two reasons. One, it should have started the length determination from Rocky Ford road based on the need for emergency vehicles, because starting from the cul-de-sac already inside Indian Hills Estates does not provide any type of access for emergency vehicles. Secondly, the maximum length is over 1000 ft from the proposed starting point and is over 2000 ft from Rocky Ford road. This is illustrated on the figure shown below, taken from the Bartholomew County GIS. Increasing the number of lots in this subdivision would make the situation worse for emergency situations.

Figure Taken from Table 16.24.1 of the Street Design Standards Ordinance

Cul De Sacs (the following apply to all Local Streets):	
Maximum Length	650 ft.
Maximum No. of Lots	30
Minimum Outside Radius	40 ft.
Maximum Outside Radius	50 ft.
Minimum Radius	50 ft.
Minimum Tangent	0 ft.
Maximum Grade	10.0%
Minimum Grade	0.5%



This figure was taken from the Bartholomew county GIS and shows approximate distances for the road length in the proposed minor subdivision in excess of 1000 ft (standard for new cul-de-sac is 650 ft). Additionally, it illustrates over 2,000 ft to Rocky Ford road.

Ordinance Section Number: 16.24.225 Resubdivison of land

Description of Alleged Plat Committee Error: In section E. Covenants, it describes a requirement that a resubdivision shall be subject to any covenants and restrictions that applied to the original subdivision plat. The proposed replat to create Lot 19 could violate Covenant #16, which addresses maintenance of drainage ditches along the road. Allowing any construction on this lot could create drainage issues for both homes in Indian Hills and High Vista, due to the known water flow that occurs when it rains. Two culverts on Lots 3 and 4 take water from the east, where water then flows under the Shoshonee road, and continues downward through proposed Lot 19 and into the field that borders Taylor Road on the west side of Indian Hills. Reducing the ability of water to drain via proposed Lot 19 will create potential water issues for existing Lot owners.

Ordinance Section Number: 16.24.225 Resubdivison of land and Indian Hills Estates, Original Plat Approved in 1962

Description of Alleged Plat Committee Error: The original Indian Hills Estates Plat contains a section on the left side under a title, "OWNER'S CERTIFICATE". Quoted is a portion of this section, "... but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities, and to the rights of the owners of other lots in this subdivision..." A precedent that has previously been established and is generally agreed to in Columbus regarding subdivisions is that a reasonable expectation of a lot owner or person purchasing a lot in a fully developed major subdivision is that the lot size will remain as platted. This is particularly true when the property values in a subdivision are significantly higher than the average property value in the city. Within the past month, Lot 2 was sold, and that party specifically inquired about whether or not another house could be built on Lot 17 (the proposed replat for a minor subdivision). The person purchased Lot 2 with the understanding that no other house could be built on Lot 17, which is across the street. The other lot owners in Indian Hills Estates are also of the opinion that subdividing Lot 17 would adversely affect property values.