



STAFF REPORT

BARTHOLOMEW COUNTY PLAN COMMISSION (May 8, 2013 Meeting)

Docket No. / Project Title: MI/P-13-04 (Kfruhner Minor Subdivision)
Staff: Thom Weintraut
Applicant: Ken Fruhner
Property Size: 13.97 Acres
Current Zoning: AG (Agriculture: General Rural)
Location: South side of Baker Hollow Road, 250 feet east of County Road 750 West, in Harrison Township

Background Summary:

The applicant has indicated that the proposed subdivision is for the purpose of creating 3 new lots for a total of 3 Lots and a Parent Tract remainder totaling 14 acres. The request includes the following: (1) a modification request from Section 8-59(g) of the Bartholomew County Subdivision Ordinance to allow the creation of an irregularly shaped lot (2) a modification request from Section 8-60(table 8-1) for a Condition 3, Type A driveway corridor to not meet the standards for a public street. In addition, soil characteristics limit the size of the two required septic fields on Lot 3 to supporting only a two bedroom home.

Key Issue Summary:

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

1. Do the site conditions create a need for the Parent Tract Remainder and Lot 3 to have an irregular shape?
2. Should the access easement meet the minimum grade standards for a public street?
3. Will allowing Lot 3 to be approved with septic field capacities for a two bedroom home have any impact on the viability or appeal of the property in the future?

Preliminary Staff Recommendation:

Approval, including the following requests:

1. Approval of the request for a modification from Section 8-59(g) of the Subdivision Control Ordinance to allow the Parent Tract Remainder and Lot 3 to have an irregular shape.
2. A request for a modification from Section 8-60(Table 8-1) to allow an access easement to not meet the minimum grade standards for a public street
3. Approval of Lot 3 to have limitations on the septic sites which will restrict the size of the house to no more than 2 bedrooms. This shall include the condition that the two separate septic sites suitable to a 2-bedroom home remain on the property and that the sites are in no instance combined to initially support a larger home thereby leaving no backup septic location. This condition shall be documented with a note prominently featured on the plat and a request that the Bartholomew County Health Department make this notation in their files for this location.

Plan Commission Options:

In reviewing a request for *minor subdivision approval*, which includes a request for modification(s) the Plan Commission may (1) approve the modification(s) and the subdivision, (2) deny the modification(s) and the

subdivision, or (3) continue the review to the next Plan Commission meeting. If more than one modification is requested, the Plan Commission may approve some, all, or none of the requests. The Plan Commission may attach conditions to the approval of the modification(s); however the conditions should be directly related to the circumstances of the modification requested (per Subdivision Control Ordinance Section 8-119(c)).

Modification Decision Criteria:

Indiana law and the Bartholomew County Subdivision Control Ordinance require that the Plan Commission approve all subdivisions which meet the applicable requirements. The Plan Commission has delegated the approval authority for Minor Subdivisions to the Plat Committee. This application is being considered by the Plan Commission because the Plat Committee found at least one aspect of the proposal to be inconsistent with the Subdivision Control Ordinance. Section 8-119(a) of the Subdivision Control Ordinance indicates that the Plan Commission may grant a modification of the requirements of the Ordinance upon the determination that each of the following is true:

1. The modification will not be detrimental to the public, health, safety, and general welfare.
2. Adjacent property will not be adversely affected.
3. The modification is justified because of exceptional topographic or other physical conditions unique to the property involved, as opposed to mere inconvenience or financial disadvantage.
4. The modification is consistent with the intent of the Zoning Ordinance, other applicable ordinances, and the Comprehensive Plan.
5. The condition necessitating the modification was not created by the owner or applicant.
6. The modification will not conflict with the requirements of the Zoning Ordinance including but not limited to lot area, lot frontage, lot width, and setback(s).

Outstanding Technical Comments:

None

Current Property Information (entire subdivision site):	
Land Use:	undeveloped
Site Features:	The site contains a stream along the north side of the property and is heavily wooded. The property contains steep slopes that rise approximately 50 feet from the north to the middle of the property.
Flood Hazards:	The property contains areas mapped in the A zone along the northern portion of the property. Flood Zone A are areas that do not have the floodway delineated or the base flood elevations determined.
Special Circumstances: (Wellfield Protection Area, etc.)	No special circumstances
Vehicle Access:	The lots will gain access through a common access easement connecting to Baker Hollow Road and the parent tract has direct frontage from Baker Hollow Road which is a Local Road.

Surrounding Zoning and Land Use (entire subdivision site):		
	Zoning:	Land Use:
North:	AG (Agriculture: General Rural)	Single-family residential
South:	AG (Agriculture: General Rural)	Wooded and undeveloped
East:	AG (Agriculture: General Rural)	Single-family residential
West:	AG (Agriculture: General Rural)	Single-family residential

Interdepartmental Review:	
County Highway Department:	The right-of-way to the west of the driveway location should be cleared to allow better traffic visibility.
County Health Department:	The two septic sites for Lot 3 have limited capabilities and will not support the construction of a house with more than two bedrooms.

History of this Application:

The relevant history of this application includes the following: This application was reviewed for technical comments and forwarded to the Plan Commission for three modification request: 1) relief from Section 8-60(Table 8-1) of the Subdivision Ordinance to allow the construction of an access easement to not meet the minimum standards grade standards for a public street, and 2) relief from the Section 8-59(g) of the Subdivision Control Ordinance to allow a lot to have an irregular shape. In addition, the property also has limited capabilities for septic site locations on Lot 3 which restrict the size of the home to no more than 2 bedrooms.

Planning Consideration(s):

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

1. The portion of the property along the frontage of Baker Hollow Road is located in the 100-year floodplain. In order to build on this portion of property the petitioner has to obtain a study of the floodplain to determine the Base Flood Elevations and have the floodway delineated.
2. The parent tract remainder is theoretically being divided in two by the location of the 3 lots. The petitioner states he plans to place the 10 acre parent tract into a conservation program and therefore wanted the lots in the middle of the parent tract to allow the 30 foot area between their lots and the adjacent lots to limit any proposed building adjacent to the lots. The petitioner could place a restriction on the property that would increase setbacks and/or limit the placement of any structures within 30 feet of the adjoining properties and adjust the lots to one side of the parent tract to allow a 60 foot wide area for access to the rear property.
3. The location of the floodplain limits the potential use of most of the property in front (to the north) of the proposed lots. The placement of the access easement does not provide for an area on the eastside of the easement that would be a viable building site.
4. The topography of the property rises sharply (20%) south of the flood area which would makes the construction of an access easement meeting the 12% grade requirements for a county road difficult and costly. Due to the extreme topography it is unlikely that the access easement will be required by the County in the future for a public road. In addition the property to the rear (south) of this parcel is

under common ownership with a property to the east of this site that has access to Baker Hollow Road.

5. The petitioner states that the 50 foot wide extension southward of lot 3 is too allow them to place a HAM radio tower on the property.
6. Due to the extreme topography, floodplain, and soil characteristics, the location of the lots are best suited in those locations. The petitioner is planning to place the Parent Tract remainder into a conservation program. The conservation program requires a minimum of 10 acres to qualify. The proposed Lot and Parent Tract remainder layout is necessary to provide building lots and still qualify for the conservation program.
7. The soil types on this property are classified as having severe characteristics that limit either the permeability (Burnside Series) due to flooding or have steep slopes and shallow soils and bedrock (Berks, Rarden, and Rockcastle Series). Lots 1 and 2 have areas sufficient to allow the installation of two septic systems that per lot would support a 3-bedroom home but, on Lot 3 both site locations for the septic system will only support a 2-bedroom home.

Subdivision Control Ordinance Consideration(s):

The following provisions of the Subdivision Control Ordinance apply to the key issues of this application:

1. Section 8-59(g) of the Subdivision Control Ordinance states that irregular lots may permitted by the Plan Commission where it deems such a pattern to be more appropriate to the site conditions than regular shapes.
2. Section 8-60(i) of the Subdivision Control Ordinance states that when a access easement or reserved right-of-way corridor crosses a lot or agriculture remainder when future dedication of the corridor would create separate buildable lot(s) agriculture tract(s), or unbuildable remnant(s), the land so crossed shall be platted as separate lot(s), tract(s), or unbuildable parcel(s) as the corridor is created.
3. Section 8-60(Table 8-1) of the Subdivision Control Ordinance states access easements that serve 4 lots shall be required to have the profile grade, horizontal alignment, length, and drainage meet the standards for a public street. Certified construction plans shall be submitted for approval and the improvements shall extend to the property line of the farthest lot(s) receiving access from this corridor.
4. Section 8-56(b) states that each lot will contain enough land of a soil type suitable for septic tanks to permit installation of an individual subsurface disposal system of sufficient size to accommodate the wastewater generated by the uses permitted on the property. If the Soil Survey of Bartholomew County indicates that the absorption fields are to be located in soils having severe limitations for such systems, each lot will be large enough to accommodate two absorption fields, each containing adequate trench bottom to support a typical 3-bedroom house given the soil loading rate on that lot (as determined by the County Health Department). Lots with severe soils only capable of providing two absorption fields for homes less than 3-bedrooms may also be approved at the discretion of the Plan Commission, with that determination not being required to meet the criteria for granting a modification. However, the Plan Commission shall only approve lots capable of supporting comparatively smaller homes based on a finding that the homes will be a marketable addition to the county's housing supply capable of maintaining their viability and appeal in the long term.

KFRUHNER MINOR SUBDIVISION

A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 4 EAST
SITUATED IN HARRISON TOWNSHIP, BARTHOLOMEW COUNTY, INDIANA
PAGE 1 OF 2

FOUND Limestone
NE COR. of NE 1/4
of NW 1/4
SEC. 23, 19N, R4E

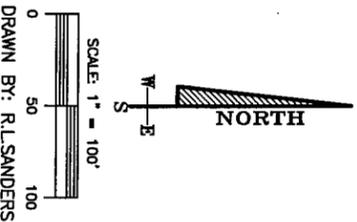
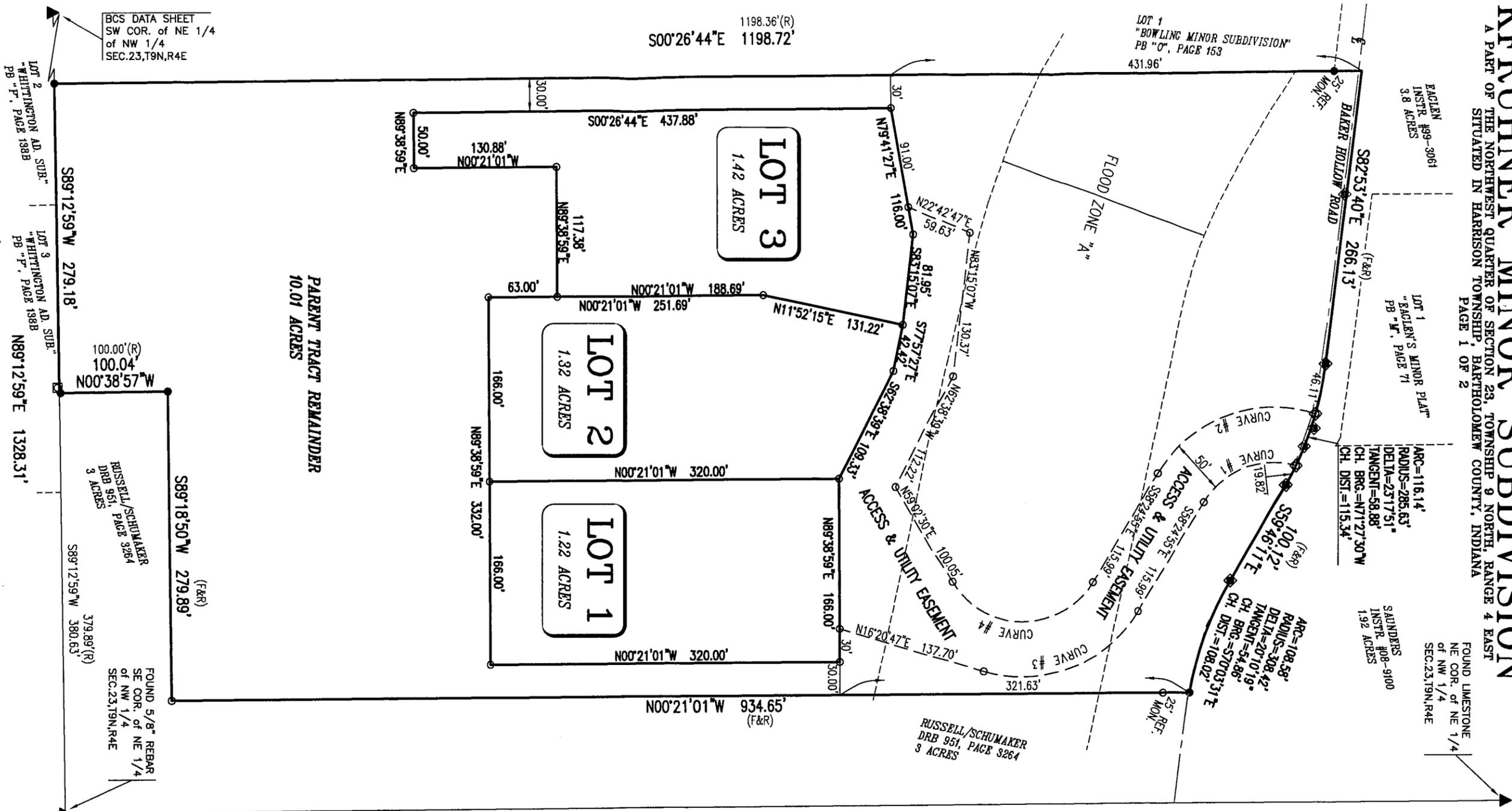
EAGLEN #99-3061
INSTR. 38 ACRES

LOT 1
"EAGLEN'S MINOR PLAT"
PB "W", PAGE 71

ARC=116.14'
RADIUS=285.63'
DELTA=23°17'51"
TANGENT=58.88'
CH. BRG.=N71°27'30"W
CH. DIST.=115.34'

SAUNDERS
INSTR. #08-9100
1.92 ACRES

LOT 1
"BOWLING MINOR SUBDIVISION"
PB "O", PAGE 153
431.96'

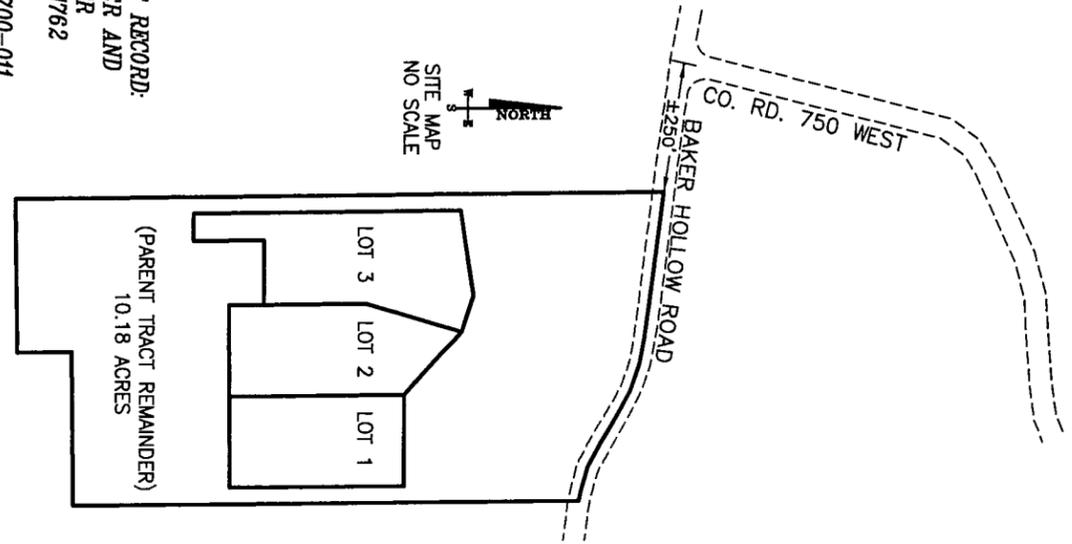


- LEGEND**
- 5/8"x30" REBAR AND CAP
 - ◊ SET THIS SURVEY
 - SET MAG NAIL
 - ◆ FOUND 5/8" REBAR
 - ◐ MAGNETIC READING
 - ◑ FOUND 1" PIPE
 - ▲ SECTION CORNER AS LABELED
 - R RECORD DIMENSION
 - F FIELD MEASUREMENT

ACREAGE TABLE

LOT 1	1.22 Ac.
LOT 2	1.32 Ac.
LOT 3	1.42 Ac.
PARENT TRACT REMAINDER	10.01 Ac.
TOTAL	13.97 Ac.
	14.00 Ac.(R)

CURVE RAD.	ARC	DELTA	TAN. CH. DIST.	CH. BRG.
#1	75.00'	96.88'	74°00'39"	56.53'
#2	125.00'	166.34'	76°14'40"	98.09'
#3	125.00'	163.10'	74°45'34"	95.50'
#4	75.00'	153.75'	117°27'23"	123.49'

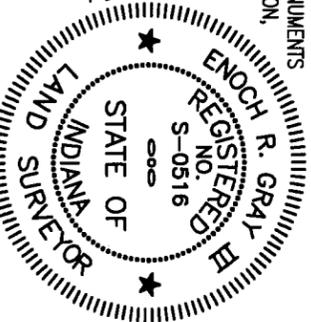


CURRENT OWNERS OF RECORD:
KENNETH H. FRUHNER AND
KATHRYN A. FRUHNER
INSTRUMENT #2011-11762
AUD. PARCEL ID:
#03-94-23-000-001,700-011

SURVEYOR'S CERTIFICATE

I, ENOCH R. GRAY, III, HEREBY STATE THAT I AM A PROFESSIONAL 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 IN APRIL OF 2013; THAT ANY CHANGES FROM THE DESCRIPTION APPEARING ON THE LAST RECORD TRANSFER OF THE LAND CONTAINED IN THIS 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.

ENOCH R. GRAY, III
LS-0516
DATE 4.8.13
I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT I HAVE TAKEN REASONABLE CARE TO REDUCT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.
ENOCH R. GRAY, III



JOB #12280

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

ER. GRAY III, L.S.

P.O. BOX 1357
COLUMBUS, INDIANA 47202
PHONE: 812-572-7398
FAX: 812-572-2175

KRUHNER MINOR SUBDIVISION

A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 4 EAST SITUATED IN HARRISON TOWNSHIP, BARTHOLOMEW COUNTY, INDIANA

PAGE 2 OF 2

OWNERS' CERTIFICATE

WE, THE UNDERSIGNED, KENNETH H. FRUHNER AND KATHRYN A. FRUHNER, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE LAY OFF, PLAT, AND SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT.

THIS SUBDIVISION SHALL BE KNOWN AND DESIGNATED AS "KRUHNER MINOR SUBDIVISION"

CONSISTING OF THREE LOTS IDENTIFIED HEREON AS LOTS 1, 2, AND 3; AND THE PARENT TRACT REMAINDER, CONTAINING IN ALL 13.97 ACRES.

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

THE SETBACK LINES SHALL BE DETERMINED BY THE REGULATIONS OF THE GOVERNING ENTITY HAVING ZONING JURISDICTION OVER THE PROPERTY SHOWN HEREIN.

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 COUNTY TO INSTALL, REPAIR, MAINTAIN OR REPLACE ITS INSTALLATION.

THERE IS A PRIVATE ACCESS AND UTILITY EASEMENT SHOWN ON THIS PLAT AND MARKED

ACCORDINGLY, THIS IS INTENDED TO BE PRIVATE IN PERPETUITY, AND THERE IS NO OBLIGATION FOR ANY GOVERNMENT ENTITY TO ASSUME ANDY RESPONSIBILITY FOR THIS EASEMENT NOW OR AT ANY FUTURE TIME. THE RESPONSIBILITY FOR MAINTENANCE AND SNOW REMOVAL IS ASSUMED BY THE OWNERS OF LOT 1, LOT 2, LOT 3, AND THE PARENT TRACT REMAINDER, AND SHALL BE SHARED AS FOLLOWS: 1/4 BY ALL THE OWNERS. SAID ACCESS EASEMENT SHALL BE KNOWN AND DESIGNATED

AS "FRUHNER LANE".

THIS SUBDIVISION CONTAINS PROPERTY INCLUDED IN THE MAPPED FLOODPLAIN ON THE NATIONAL

FLOOD INSURANCE RATE MAP - PANEL NUMBER 180006-0075, DATED MARCH 15, 1982. ALL

CONSTRUCTION, FILLING, GRADING OR ALTERATION OF THE MAPPED FLOODPLAIN SHALL BE DONE IN

ACCORDANCE WITH THE PROVISIONS IN THE COLUMBUS & BARTHOLOMEW COUNTY, INDIANA ZONING

ORDINANCE AS PERIODICALLY AMENDED.

THE REMAINING FUTURE SUBDIVISION RIGHTS OF THE PARENT TRACT REMAINDER, AS DESCRIBED IN THE BARTHOLOMEW COUNTY ZONING ORDINANCE, EFFECTIVE APRIL 1, 2008 ARE ASSIGNED AS

FOLLOWS:

LOT 1 = NONE

LOT 2 = NONE

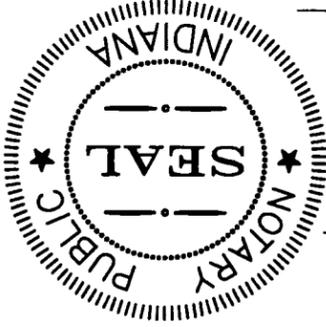
LOT 3 = NONE

PARENT TRACT REMAINDER = TWO

WITNESS MY HAND AND SEAL THIS 6th DAY OF FEBRUARY, 2013.

Kenneth H. Fruhner
KENNETH H. FRUHNER
Kathryn A. Fruhner
KATHRYN A. FRUHNER

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE, PERSONALLY APPEARED KENNETH H. FRUHNER AND KATHRYN A. FRUHNER, WHO ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT AS THEIR VOLUNTARY ACT AND DEED FOR THE PURPOSES THEREIN EXPRESSED.



3-06-13

Notary Public

COUNTY OF RESIDENCE

Bartholomew

MY COMMISSION EXPIRES

May 19, 2017

PROPERTY DESCRIPTION

PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 4 EAST LYING IN HARRISON TOWNSHIP, BARTHOLOMEW COUNTY, INDIANA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN EXISTING STONE MARKING THE NORTHEAST CORNER OF SAID QUARTER QUARTER, THENCE SOUTH 01 DEGREE-59'48" ALONG THE EAST LINE OF SAID QUARTER QUARTER A DISTANCE OF 302.77 FEET TO A RAILROAD SPIKE IN THE CENTER OF BAKER HOLLOW ROAD AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 01 DEGREE 59'-48" EAST ALONG SAID EAST LINE A DISTANCE OF 1019.42 FEET TO AN IRON PIN MARKING THE SOUTHEAST CORNER OF SAID QUARTER QUARTER; THENCE SOUTH 87 DEGREES -41'-06" WEST ALONG THE SOUTH LINE OF SAID QUARTER QUARTER A DISTANCE OF 100.12 FEET TO A RAILROAD SPIKE; THENCE SOUTH 61 DEGREES-21'-20" EAST ALONG SAID CENTER LINE A DISTANCE OF 100.12 FEET TO A RAILROAD SPIKE; THENCE SOUTHEASTERLY SPIKE; THENCE SOUTHEASTERLY ALONG SAID CENTERLINE AND A 18.5769 DEGREE CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 22 DEGREES -25'-20" AND A RADIUS OF 308.42 FEET AND A CHORD BEARING SOUTH 72 DEGREES-34'-0" EAST 119.93 FEET TO A RAILROAD SPIKE; THENCE SOUTH 83 DEGREES-46'-40" EAST ALONG SAID CENTERLINE, A DISTANCE OF 89.13 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 17.0 ACRES, MORE OR LESS.

EXCEPTING THEREFROM: COMMENCING AT A STONE FOUND, MARKING THE NORTHEAST CORNER OF SAID QUARTER QUARTER, THENCE SOUTH 01 DEGREE-59'-48" EAST ALONG THE EAST LINE OF SAID QUARTER QUARTER 302.77 FEET TO A RAILROAD SPIKE FOUND AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 01 DEGREE-59'48" EAST ALONG SAID EAST LINE 1019.42 FEET TO AN IRON PIN FOUND MARKING THE SOUTHEAST CORNER OF SAID QUARTER QUARTER. THENCE SOUTH 87 DEGREES-41'-06" WEST ALONG THE SOUTH LINE OF SAID QUARTER QUARTER 379.89 FEET TO AN IRON PIN SET; THENCE NORTH 01 DEGREE-59'-48" WEST A DISTANCE OF 100.00 FEET TO AN IRON PIN SET; THENCE NORTH 87 DEGREES-41'-06" EAST A DISTANCE OF 279.89 FEET TO AN IRON PIN SET; THENCE NORTH 01 DEGREE-59'-42" WEST A DISTANCE OF 934.66 FEET TO AN IRON PIN SET, AND IN BAKER HOLLOW ROAD; THENCE SOUTH 82 DEGREES-40'-07" EAST ALONG SAID ROAD 11.94 FEET TO A RAILROAD SPIKE FOUND; THENCE SOUTH 83 DEGREES-46'-40" EAST ALONG SAID ROAD 89.13 FEET TO THE POINT OF BEGINNING, CONTAINING 3.00 ACRES, MORE OR LESS.

(INSTRUMENT #2011-11762)

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 COUNTY OF BARTHOLOMEW, INDIANA AS FOLLOWS:

APPROVED BY COUNTY PLAT COMMITTEE AT A MEETING HELD APRIL 18, 2013.

CHAIRMAN - TOM R. FINKE

SECRETARY - THOMAS A. WIENTRAUT, JR.

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 _____, 2013.

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 _____ DAY OF _____, 2013.

BARBARA J. HACKMAN, BARTHOLOMEW COUNTY AUDITOR

RECORDING CERTIFICATE

RECORDED IN PLAT BOOK "R", PAGE _____ DAY _____

OF _____ AT _____ 2013 AT _____ O'CLOCK _____ M.

INSTRUMENT NO. _____ FEE PAID _____

ANITA L. HOLE, BARTHOLOMEW COUNTY RECORDER

SURVEYOR'S REPORT RECORDED IN INSTRUMENT NUMBER _____

JOB #12280

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

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

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