

**PLAN COMMISSION  
MINUTES**

**Monday, February 22, 2016  
7:00pm**

**A. ROLL CALL**

Members Present:

Dennis Kraus Jr.—President  
Mark Lehmann—Vice President  
Jim Thatcher  
Russell Beiersdorfer  
Art Little  
Dan Lansing  
Eric Lang  
Jake Hoog

Mark McCormack—Director of Planning & Zoning  
Nicole Daily—Zoning Administrator  
Andrew Baudendistel—Attorney

Members Absent:     Mike Hornbach

**B. ACTION ON MINUTES—None**

**C. OLD BUSINESS SCHEDULED TO BE RE-OPENED—None**

**D. OLD BUSINESS TO REMAIN TABLED—None**

**E. NEW BUSINESS**

1. **Request:**           **Review of the Preliminary Plat for a 6-lot minor subdivision, Mt. Pleasant Acres**  
**Applicant:**       **JDJ Surveying     Owner:       Barker Ravenna, LLC**  
**Site Location:**   **Mt. Pleasant Road**  
**Legal:**           **Sec. 5 & 8, T6, R1, Parcel #15-06-05-400-024.000-020 & 15-06-08-100-003.000-020**  
**Township:**       **Miller                Size:   58.174 Acres**  
**Zoning:**          **Agricultural (A)**

Mr. Dennis Kraus Jr. stated that he was a part of the surveying company that has prepared the application for this request. He stepped down from the Board and exited the room.

Mr. Mark Lehman facilitated the meeting as chairman, as Dennis Kraus, Jr. stepped down from hearing this case, acknowledging that his family's company had performed some work related to this property.

Mr. Mark McCormack presented the Board with the request by JDJ Surveying and Engineering, LLC to create a 6-lot minor subdivision. The Board is hearing this request tonight because the minor subdivision was appealed by property adjoiners within the State-allotted 10-day period (upon receipt of a letter from the Plan Commission staff). Two appeals from adjoining property owners were received—one on January 13<sup>th</sup> (from Kenneth & Helen Thomas) and one on January 15<sup>th</sup> (from Charles Andrews) in accordance with IC 36-7-4-708. Based on the appeal statement(s) received from Mr. Andrews (on his behalf, as well as for the Mt. Pleasant Cemetery Association), there are concerns that proposed development of the shared driveway access (at minimum) would be within 100 feet of the cemetery and its associated gravesites. The Indiana Department of Natural Resources (IDNR) has requirements regarding any land disturbances within 100 feet—and more strict requirements for land disturbances within 50 feet of any cemetery. The other appeal from Kenneth and Helen Thomas acknowledged that they disagreed with the approval of a subdivision in this part of the County, without any specific State or local code or ordinance-type of issue referenced.

Mr. McCormack continued with the slide presentation to illustrate the subject property and the surrounding area. He reviewed the Primary Plat procedure for a minor subdivision, which mainly consists of a review of the submitted plans for technical conformance by the Technical Review Committee. As the Technical Review Committee's decision to grant Primary Plat approval of the proposed 6-lot subdivision was appealed, the case being presented to the Board is to review whether or not the Technical Review Committee and County staff properly applied all of the necessary / required technical standards, specifications, rules and procedures for the proposed subdivision.

Mr. Lehmann asked if there are major issues with the panhandles being at 15 feet.

Mr. McCormack stated that 15 feet for a panhandle width is the minimum allowed if there is another panhandle adjacent to it to create a total of 30 feet for both panhandles, based on Article 3, Section 315C of the Dearborn County Subdivision Control Ordinance.

Mr. Lehman asked about the major improvement of the driveway next to the cemetery.

Mr. McCormack stated that staff is still waiting on confirmation from the IDNR about any issues or restrictions of the proposed shared driveway next to the cemetery—and the regulations that would be involved in association with a driveway being constructed within 100 feet of a cemetery. The Planning Director called the Division of Archeology and Historic Preservation of the IDNR and left a message; a return call had not been received prior to the meeting.

Mr. Jake Hoog asked if there are grave sites all the way up to the property lines of the cemetery.

Mr. McCormack stated that nothing has been submitted (by any party) with respect to the locations of grave sites. If the State requires that grave sites be identified, then the Applicant

will have to provide all necessary information prior to moving on with the next stage of the land division process.

Mr. Eric Lang asked if the Planning Director could clarify whether the 100-foot distance applied to identified gravesites or the property lines.

Mr. McCormack stated that he was unclear if the applicable 100-foot distance was to the property line of the cemetery or the nearest grave site. He is waiting on information from the State on its determination(s) and finding(s).

Mr. Thatcher asked if the edge of pavement for Mt. Pleasant Road was more than 100 feet from the cemetery.

Mr. McCormack stated that the road was closer than 100 feet to the cemetery.

Mr. Russell Beiersdofer asked if there were headstones beyond the property lines of the cemetery.

Mr. McCormack stated that he could not give a definite answer to that question. That would have to be asked of the Applicant or other parties affiliated with the cemetery.

There were no further questions from the Board.

Mr. Jeff Stenger, presented the request for the property owner. Mr. Stenger explained that the proposed panhandles on the southern portion of the property are 15 feet in width because the driveways will not be located in the panhandles. The driveways for the proposed southern tracts will be placed in an easement (located outside of the panhandles) at the public roadway. Mr. Stenger also notes that the panhandles have been provided in consideration of the location of the proposed water meters, to satisfy the water company's requirements (that water meters have to be located on the property owned by the home owner). Mr. Stenger notes that the utility easement shown on the north side of the property is strictly for utilities. There will not be any access through this easement. He states that the distance between the existing barn on the owner's property and the cemetery property line is approximately 43.6 feet. As the project is currently being proposed, the edge of the driveway will be 17 feet from the property line of the cemetery, at its closest point.

Mr. Stenger presented additional pictures of the property and staked locations with regards to the existing cemetery. He also presented historic and current aerials of the cemetery and surrounding area. The historic aerials show an old building on the cemetery property that is believed to be the meeting hall for the old church. Mr. Stenger notes that if the State determines that the driveway is too close to the cemetery on the westerly property line of the cemetery, there is room to move the driveway and easement down the hill more towards the west.

Mr. Stenger states that all proposed driveways meet the County's minimum sight distance requirements.

Mr. Lehmann asked if Mr. Stenger foresees any modification that the State will require a redesign of the portion of the northern driveway along the south property line of the cemetery.

Mr. Stenger stated that he did not believe there would be any issues with this portion because there will probably only be new gravel added to the existing portion of the driveway. If anything, the owner may add a couple feet to the width of the driveway towards the south. He will be submitting drawings and all other necessary information to the IDNR if the Primary Plat plan is confirmed / approved through this meeting. Mr. Stenger is assuming that the review from the State will take the minimum of 60 days, as stated by IDNR policies and procedures.

Mr. Mark Lehmann asked if there was anything of significance found through the research of the cemetery through the survey process.

Mr. Stenger stated that much of his information is based on a Retracement Survey that was done on the property—prior to the auction of the property in which the current owner obtained the property. Other than the information that he has received from the owner of the property, he has not obtained other information on the cemetery or its grave site locations.

Mr. Stenger noted that there are existing headstones that are within 15 feet of the edge of pavement for Mt. Pleasant Road, based on field work conducted through the retracement of this property.

Mr. Lehmann asked if Mr. Stenger knew the distance to the nearest headstone from the proposed driveway.

Mr. Stenger estimated that there is approximately between 30 to 35 feet from the property line to the nearest headstone.

The Board had no further questions for the Applicant.

**Mr. Beiersdorfer made a motion to open public discussion. Mr. Lansing seconded the motion. All in favor. None opposed. Motion carried.**

Mr. Chuck Andrews, of 23230 Mt. Pleasant Road, Lawrenceburg, IN 47025; President of the Mt. Pleasant Cemetery Association. Mr. Andrews notes that most of the people here at the meeting are related to the people that settled this area of the County. He states that everyone is concerned with a subdivision being constructed next to the cemetery. He notes that there are a lot of people that live next to this cemetery that have family members that are buried there. His concern is that the Board is just going to push this subdivision through without taking into consideration what the people that live in this area want. Mr. Andrews notes that the land that is located along the west side of the cemetery slopes downhill. This cemetery is already beginning to slide downhill. He asks how can a driveway be constructed on land that is already sliding?

Mrs. Terri Friedhoff, of 22291 Vogelsang Road, Lawrenceburg, IN 47025; also speaking on behalf of her dad (Mr. Chuck Andrews). She noted that there are significant concerns with respect to people driving over the graves in the cemetery. The other main concern is for the slope of the ground where the proposed driveway to the rear of the cemetery would be. If the ground is disturbed, there is a concern that the land will slide and the graves will slip down the hillside as the ground being disturbed.

Mr. Don Irrgang, of 23130 Mt. Pleasant Road, Lawrenceburg, IN 47025, is an adjoining property owner with the existing driveway that is across from the proposed driveway to the south. Mr. Irrgang notes that the cemetery association has been told that there are unmarked grave sites that are situated on the northern area of the cemetery; this is why no new gravesites have been placed in this area. He states that there would be a concern with water lines being proposed along this northern property line for this reason. Mr. Irrgang notes that this is still an active cemetery; there are still grave lots being sold. He also wanted to ask about the driveways that will be across his driveway. He notes that there is a concern with the visibility to the left (south). He also wanted to make sure that the Board knew that there is a high pressure gas line that runs through the Owner's property.

Mr. Bob Andrews, whose father owns the adjoining property to the south. Mr. Andrews has concerns with the cemetery because of the age of the grave sites—noting that there might be Indians that are buried in the cemetery. He notes that the State has a law on signage for private driveways. He has concerns with slippage on the western property line (adjoining the cemetery) because of the construction of the proposed driveway. He just wants to make sure that there are no issues that will cause harm to the cemetery or its grave sites because of this development in the future. He wants to make sure that the development is done right.

Mrs. Peggy Dawson, decided not to speak.

Mr. Hank Schmaltzer, a property owner in the area who lives down the road from the development. Mr. Schmaltzer notes that his parents are buried in the cemetery and he has a future plot to be buried in this cemetery. He doesn't feel that driveways need to be constructed so close to a cemetery. He states that this development needs to be reconsidered—to be placed somewhere else in the county.

Mr. Doug May, of 4175 Kaiser Drive, Lawrenceburg, IN 47025. He was unaware of the meeting, but was told about the meeting by Mr. Andrews. He is here at the meeting because he was told that someone drove over his grandfather's grave. His mother is also buried in this cemetery. He notes that a portion of the proposed shared driveway will be within 100 feet of his grandfather's and mother's gravesites. Mr. May states that he is not against development but thinks that it needs to be responsible; the driveways should be placed further away from the grave sites.

Mr. Lehmann asks Mr. May to look at pictures that were presented by the surveyor that shows the centerline of the proposed driveway in conjunction with the property line of the cemetery.

Mr. Stenger stated that the driveway will not be on a steep slope that has been referenced, close to the cemetery property. He notes that there will only be approximately 6 inches to a foot of difference in grade across a 12 to 15 foot proposed driveway.

Mrs. Kay Yocum, of 23291 Mt. Pleasant Road, Lawrenceburg, IN 47025, adjoining property owner. She lives on property that has been split into a 5-acre tract of land. She doesn't have a problem with the subdivision, but she does have concerns with the growth of development in the area near the cemetery and the increase of people that could possibly do damage to the cemetery.

Mr. Bob Andrews, asked to speak again. The people who have families buried in the cemetery have discussed putting up a fence because of the problems they have been having with trespass and access issues. He notes that there is a cost to putting up a fence around the cemetery.

Mr. Stenger wanted to discuss issues that were brought up by the public. He stated that there is a process that is required that will address the water runoff caused by this development. Once the Primary Plat process is completed, the owner / developer will be required to get a permit from the State for Rule 5—which is reviewed by and issued through the local Soil and Water Conservation District. Mr. Stenger notes that the private driveways will be constructed at approximately a minimum of 10 to 12 feet, but the easements will be 50 feet wide for the maintenance of those driveways. He states that he feels that this subdivision has met the standards through the Dearborn County Zoning Ordinance and the Dearborn County Subdivision regulations, which should be the primary issue(s) for the board to consider. He notes that the fencing for the cemetery by law has to be installed and maintained by the cemetery.

Mr. Lehmann asked about the sight distance for the proposed driveways.

Mr. Stenger stated the sight distance for each driveway meets the County standards.

Mr. Lehmann asked about access for the cemetery to have an easement to use the existing driveway for funerals.

Mr. Stenger stated that is something for the property owner to discuss with the cemetery association. He acknowledged that maybe there could be a parking area that could be installed to accommodate for funerals.

Mr. Stenger asked if the cemetery association has any drawing or plat that shows the locations of gravel sites.

Mr. Irrgang stated that the cemetery association does not have any drawing that would show the layout of the cemetery.

Mr. Stenger stated that he (as Applicant) and the Owner would have to get State approval for the current Primary Plat plan(s) before a Secondary Plat can be submitted. He notes that the final plans are not going to be done until an approval / determination is received from the IDNR.

Mr. Irrgang asked about the lot frontage and road frontage for the panhandles.

Mr. Stenger, stated that the County ordinances allow that a single panhandle lot can be between 30 feet to 60 feet wide (and can be split in half); however, the access for a driveway does not have to go through the panhandle. He acknowledges that the ordinance provides that a driveway for panhandle lots can be accessed through a 50-foot wide access easement.

Mrs. Terri Friedhoff wanted to speak about the unmarked graves. She noted that her father has found graves and is placing stones and plaques on the unmarked graves. There are a lot of unmarked graves that they believe are still there to be found. She states that the picture that the Applicant submitted tonight does not do justice for the slope of the hillside that is on the western property line of the cemetery.

Mr. Doug May requested to speak again. He notes that there should be another location that the driveways can be installed besides along the western property line of the cemetery.

Mr. Allen Hansel, resident along Mt. Pleasant Road. His relatives are located in this cemetery. His concerns are with the unmarked graves in the cemetery. He notes that people would go to church there on the property and when church was over, there would be a new grave that had been dug while attending church. He noted in the past, people would just bury family members in the nearest cemetery with no markings as they were passing through. He notes that this cemetery is still privately maintained and has not been turned over to the township or the county.

Mr. Beiersdorfer made a motion to close public discussion. Mr. Lansing seconded the motion. All in favor, none opposed, motion carried.

Mr. Lehman wanted to make sure of the options that were available for the Board on a decision.

Mr. McCormack stated the Board can make a motion to support the decision of the Technical Review Committee. He acknowledged that the Board can deny the primary plat based upon technical aspects of the subdivision. He noted that the Board can table the request, if the board members feel that they need additional information to make a decision.

Mr. McCormack continued with issues or concerns with items that were brought up in the meeting pertaining to the applicable State and local codes.

Mr. Lang asked if the driveway is within 50 feet, then he is assuming that there will be more restrictions required by the IDNR—and the area near the cemetery and the proposed driveway will need to be studied before a driveway location can be confirmed (which may ultimately result in the driveway needing to be moved). He notes if the Applicant were move the proposed driveway to avoid more research from IDNR, the panhandles would probably stay the same but the access easement would be adjusted accordingly and it would not be entirely placed within the panhandles.

Mr. McCormack states that the actual driveway location can be moved outside of the panhandle portion of the flag lot and possibly not have IDNR involved if the distance involved is greater than 100 feet. If the driveway is within 50 feet, it is staff's understanding that a more rigorous review process through the State will be required and this process may require changes to the Primary Plat to be made.

Mr. McCormack reiterated that that Board needs to look at the technical aspects of the subdivision. As there are potential cemetery issues involved with this subdivision, staff cannot approve a Secondary Plat until the State has made its findings and determinations on the issues involved. If the Board confirms / approves the Primary Plat decision of the Technical Review committee, an approval / report of findings from the Division of Archeology and Historic Preservation (from the IDNR) will still need to be received prior to the full review and action of a Secondary Plat submittal. Mr. McCormack notes that this process would be similar to how staff awaits and receives Rule 5 approvals from IDNR for development proposals. He notes that there would still be other items necessary to submit before a Secondary Plat approval is

submitted or approved. He acknowledges that the issues with the cemetery are a potential State enforcement issue, as opposed to a local ordinance issue.

**Mr. Art Little made a motion to close public discussion. Mr. Beiersdorfer seconded the motion. All in favor. None opposed. Motion carried.**

Mr. Andy Baudendistel, Attorney for the Plan Commission, addressed the Board. He notes that one of the issues that was brought up tonight was fencing for the cemetery. For each cemetery that is a non-profit, a fence would be required around the perimeter of the cemetery. Since this cemetery is not in control of a township, the cemetery association would be required to install the fence. The IDNR requirements are above the requirements of the County. Therefore, the County cannot approve a final, secondary plat without the IDNR's approval on the cemetery issues. Mr. Baudendistel noted that the State's requirements in this case are separate from the local technical requirements outlined the County Zoning and Subdivision Ordinances. If the Board feels that the subdivision meets the local ordinances for land divisions and development, then the Technical Review Committee's decisions must be upheld. Otherwise, there has to be a code cited if the Board feels the Technical Review Committee approved the Primary Plat without proper consideration of a code or regulation.

Mr. Hoog asked about the involvement of INDR if the Board were to approve the subdivision.

Mr. McCormack stated that the approval from IDNR would have to be received if the Board were to approve the subdivision. This process could not be skipped regardless of the Board's decision or conditions.

**Mr. Lang made a motion to confirm the Technical Review Committee's approval, finding there is a lack of evidence to support that the County's technical specifications have not been met or that there was any wrongdoing in the decision made by the Technical Review Committee. He finds that the Primary Plat requirements and technical specifications for the proposed subdivision have been met.** The Technical Review Committee's conditions of approval still remain in effect. Mr. Beiersdorfer seconded the motion. None opposed, motion carried.

Mr. Kraus Jr. returns to the Board.

#### **Administrative:**

Mr. McCormack discussed the proposed Dillsboro inter-local agreement; County Council asked that the department request an increase to the fees related to the inter-local agreement. Mr. McCormack noted that if this item can be addressed, this agreement should be approved through the County Commissioners and County Council within the next month.

Mr. McCormack discussed additional work related to a new 911 system that is being installed that involves staff because of the relationship to GIS that will be used by 911. The deadline for this project is the end of June.




**Mr. Beiersdorfer made a motion to adjourn the meeting. Mr. Lehman seconded the motion. All in favor. None opposed. Motion carried.**

Meeting adjourned at 10:36 PM

A handwritten signature in black ink, appearing to read "Dennis A. Brown". The signature is written in a cursive style and is positioned above a horizontal line.

President

A handwritten signature in blue ink, appearing to read "Mark McCormack". The signature is written in a cursive style and is positioned above a horizontal line.

Mark McCormack, Planning Director