WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT

20-W-SUBD-4 **REPLAT** ~~**MARCH 18, 2020**~~
MAY 20, 2020

Keith and Linda Robinson **AGENDA ITEM:** 1
Replat of Lot 9, Legacy Preserve, Phase II

This petition was continued from a previous meeting due to lack of required notice and then delayed due to COVID precautions. New notice has been provided.

SUMMARY OF PROPOSAL

			Minimum	Proposed
Current zoning:	RR, Rural Residential			
Area of replat:	37.5 acres	Lot size:	10,000 sf.	10.456 acres
Number of lots:	2 lots	Lot width:	75'	450'
Common areas:	0	Lot frontage:	50'	50.00'

Keith and Linda Robinson, owners of the subject property, are seeking approval for a replat of Lot 9, Legacy Preserve, Phase II, located on the north side of Heritage Rail, north of State Road 14, approximately one half mile west of CR 800 East. This is a proposed split of Lot 9 of Legacy Preserve, Phase 2, First Replat (recorded 10/18/2019) to create a new Lot 13.

As proposed, the western 10.455 acres of Lot 9 would be split to create a new Lot 13. The new lot would have frontage on the eyebrow of Legacy Court/Heritage Trail, and the existing Lot 9's driveway would be moved eastward to directly access Heritage Trail. The remainder of Lot 9 would be 27.044 acres.

Comment letters received *(as of date of staff report)*

Electric		Health	X	Cable TV		Parcel Cmte.	X
Gas	X	Co. Highway	X	Sanitary Sewer			
Telephone	X	SWCD	X	Water			

The proposed plat appears to comply with the development standards of the zoning code, with the possible exception that Lot 13's frontage is not necessarily on a "public" street, depending on the Commission's interpretation of "public street."

All utility easements, setback lines, and the like are not shown on the submitted plat document. Final locations and dimensions of easements, lots, etc. must be shown on the secondary plat. Additionally, the Parcel Committee requested the title of the plat be "Legacy Preserve, Phase 2, Second Replat" to align with previous changes. As per the normal process for multi-section subdivisions, the Parcel Committee will need to review the secondary plat prior to recordation.

Restrictive covenants applicable to the new lot were previously adopted as part of the Legacy Preserve.

As mentioned in the comments from the County Engineer, the public improvements that were to be constructed in the original plat of Legacy Preserve have yet to be completed. The original plat was approved by the Commission in August 2014, contingent on financial surety, and recorded in September of that year. There have been three subsequent amendments or replats of the subdivision, in 2014, 2016, and 2019. Per the County Engineer, items on the 2018 agreed work plan still remain undone, and neither the drainage facilities nor street have been accepted by the County as public improvements.

In the three subsequent amendments or replats of the subdivision, one added a new lot and two reconfigured existing lots. Staff cautions the Commission about approving another replat that would create another lot when the road it fronts upon has not yet been completed and accepted as a public improvement by the County. If desiring to approve this replat to create another lot, the Commission should have a

discussion about completing these improvements to the required specifications in a timely manner, and determine any conditions or contingencies.

WAIVER REQUESTS
There are no waiver requests.

REVIEW CRITERIA
Subdivision primary plats are reviewed for compliance with the standards of Subdivision Control Ordinance and the Zoning Code. Staff finds that the proposed replat appears consistent with the standards, with the following suggested condition(s):

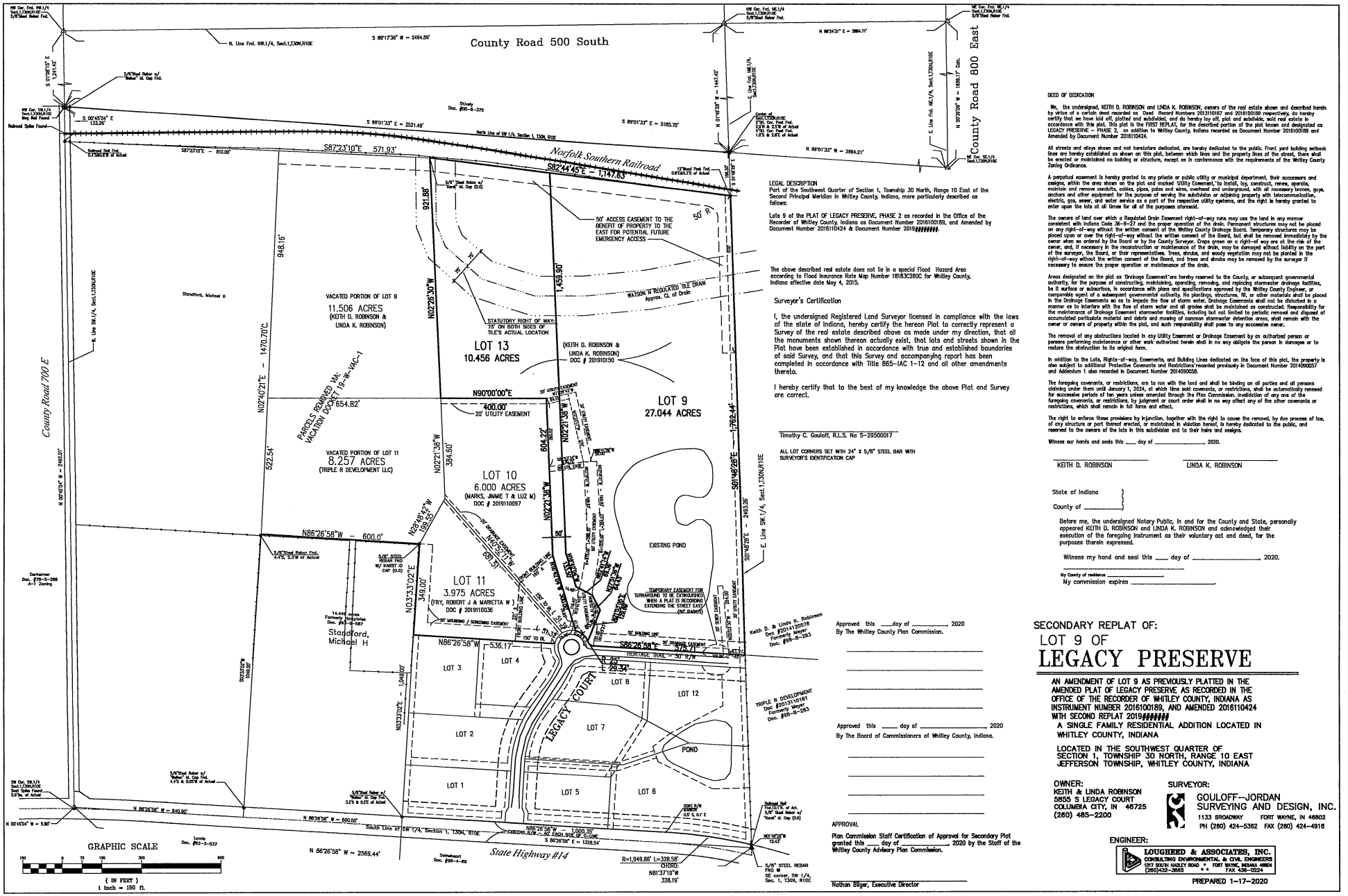
1. Easements, dimensions, text, etc. must be corrected on the secondary plat (with review by Parcel Committee prior to recordation).
2. The plat title is subject to approval based on the Recorder's specifications.
3. Depending on the discussion about how to complete the outstanding public improvements, secondary plat approval might delegated to the Plan Commission Staff, or it be better reserved for Commission review.

Date report completed: 3/11/20, NB. Revised 5/12/20.

PLAN COMMISSION ACTION

Motion: By: Second by:

Vote:	**Hodges**	**Johnson**	**Mynhier**	**Western**	**J. Wolf**	**B. Wolfe**	**Woodmansee**	**Wright**	***Vacant***
Yes									
No									
Abstain									



DEED OF DEDICATION

We, the undersigned, KEITH D. ROBINSON and LINDA K. ROBINSON, owners of the real estate shown and described herein by virtue of a certain deed recorded as Deed Record Numbers 2013110187 and 2016100188 respectively, 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 this plat. This plat is the FIRST REPLAT, for the described portion of the plat known and designated as LEGACY PRESERVE – PHASE 2, an addition to Whitley County, Indiana recorded as Document Number 2016100189 and Amended by Document Number 2016110424.

All streets and alleys shown and not heretofore dedicated, are hereby dedicated to the public. Front yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure, except as in conformance with the requirements of the Whitley County Zoning Ordinance.

A perpetual easement is hereby granted to any private or public utility or municipal department, their successors and assigns, within the area shown on the plat and marked 'Utility Easement,' to install, lay, construct, renew, operate, maintain and remove conduits, cables, pipes, poles and wires, overhead and underground, with all necessary braces, guys, anchors and other equipment for the purpose of serving the subdivision or adjoining property with telecommunication, electric, gas, sewer, and water service as a part of the respective utility systems, and the right is hereby granted to enter upon the lots at all times for all of the purposes aforesaid.

The owners of land over which a Regulated Drain Easement right-of-way runs may use the land in any manner consistent with Indiana Code 36-9-27 and the proper operation of the drain. Permanent structures may not be placed on any right-of-way without the written consent of the Whitley County Drainage Board. Temporary structures may be placed upon or over the right-of-way without the written consent of the Board, but shall be removed immediately by the owner when so ordered by the Board or by the County Surveyor. Crops grown on a right-of way are at the risk of the owner, and, if necessary in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the Board, or their representatives. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the Board, and trees and shrubs may be removed by the surveyor if necessary to ensure the proper operation or maintenance of the drain.

Areas designated on the plat as 'Drainage Easement' are hereby reserved to the County, or subsequent governmental authority, for the purpose of constructing, maintaining, operating, removing, and replacing stormwater drainage facilities, be it surface or subsurface, in accordance with plans and specifications approved by the Whitley County Engineer, or comparable agent of a subsequent governmental authority. No plantings, structures, fill, or other materials shall be placed in the Drainage Easements so as to impede the flow of storm water. Drainage Easements shall not be disturbed in a manner as to interfere with the flow of storm water and all grades shall be maintained as constructed. Responsibility for the maintenance of Drainage Easement stormwater facilities, including but not limited to periodic removal and disposal of accumulated particulate material and debris and mowing of common stormwater detention areas, shall remain with the owner or owners of property within the plat, and such responsibility shall pass to any successive owner.

The removal of any obstructions located in any Utility Easement or Drainage Easement by an authorized person or persons performing maintenance or other work authorized herein shall in no way obligate the person in damages or to restore the obstruction to its original form.

In addition to the Lots, Rights-of-way, Easements, and Building Lines dedicated on the face of this plat, the property is also subject to additional Protective Covenants and Restrictions recorded previously in Document Number 2014090057 and Addendum 1 also recorded in Document Number 2014090058.

The foregoing covenants, or restrictions, are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2024, at which time said covenants, or restrictions, shall be automatically renewed for successive periods of ten years unless amended through the Plan Commission. Invalidation of any one of the foregoing covenants, or restrictions, by judgement or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the owners of the lots in this subdivision and to their heirs and assigns.

Witness our hands and seals this ___ day of _____, 2020.

KEITH D. ROBINSON

LINDA K. ROBINSON

State of Indiana)
County of _____)

Before me, the undersigned Notary Public, in and for the County and State, personally appeared KEITH D. ROBINSON and LINDA K. ROBINSON and acknowledged their execution of the foregoing instrument as their voluntary act and deed, for the purposes therein expressed.

Witness my hand and seal this ___ day of _____, 2020.

My County of residence _____.
My commission expires _____.

LEGAL DESCRIPTION

Part of the Southwest Quarter of Section 1, Township 30 North, Range 10 East of the Second Principal Meridian in Whitley County, Indiana, more particularly described as follows:

Lots 9 of the PLAT OF LEGACY PRESERVE, PHASE 2 as recorded in the Office of the Recorder of Whitley County, Indiana as Document Number 2016100189, and Amended by Document Number 2016110424 & Document Number 2019#######.

The above described real estate does not lie in a special Flood Hazard Area according to Flood Insurance Rate Map Number 18183C280C for Whitley County, Indiana effective date May 4, 2015.

Surveyor's Certification

I, the undersigned Registered Land Surveyor licensed in compliance with the laws of the state of Indiana, hereby certify the hereon Plat to correctly represent a Survey of the real estate described above as made under my direction, that all the monuments shown thereon actually exist, that lots and streets shown in the Plat have been established in accordance with true and established boundaries of said Survey, and that this Survey and accompanying report has been completed in accordance with Title 865–IAC 1–12 and all other amendments thereto.

I hereby certify that to the best of my knowledge the above Plat and Survey are correct.

Timothy C. Gouloff, R.L.S. No S–29500017

ALL LOT CORNERS SET WITH 24" x 5/8" STEEL BAR WITH SURVEYOR'S IDENTIFICATION CAP

Approved this ___day of _____, 2020
By The Whitley County Plan Commission.

Approved this ___ day of _____, 2020
By The Board of Commissioners of Whitley County, Indiana.

APPROVAL

Plan Commission Staff Certification of Approval for Secondary Plat granted this ___ day of _____, 2020 by the Staff of the Whitley County Advisory Plan Commission.

Nathan Bilger, Executive Director

SECONDARY REPLAT OF:
LOT 9 OF
LEGACY PRESERVE

AN AMENDMENT OF LOT 9 AS PREVIOUSLY PLATTED IN THE AMENDED PLAT OF LEGACY PRESERVE AS RECORDED IN THE OFFICE OF THE RECORDER OF WHITLEY COUNTY, INDIANA AS INSTRUMENT NUMBER 2016100189, AND AMENDED 2016110424 WITH SECOND REPLAT 2019#######
A SINGLE FAMILY RESIDENTIAL ADDITION LOCATED IN WHITLEY COUNTY, INDIANA

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 30 NORTH, RANGE 10 EAST JEFFERSON TOWNSHIP, WHITLEY COUNTY, INDIANA

OWNER:
KEITH & LINDA ROBINSON
5855 S LEGACY COURT
COLUMBIA CITY, IN 46725
(260) 485–2200

SURVEYOR:
GOULOFF–JORDAN SURVEYING AND DESIGN, INC.
1133 BROADWAY FORT WAYNE, IN 46802
PH (260) 424–5362 FAX (260) 424–4916

ENGINEER:
LOUGHEED & ASSOCIATES, INC.
CONSULTING ENVIRONMENTAL & CIVIL ENGINEERS
1017 SOUTH HADLEY ROAD • FORT WAYNE, INDIANA 46804
(260)432–3655 FAX 436–0224

PREPARED 1–17–2020

February 18, 2020

Comments for Petition #20-W-SUBD-4 Applicant is requesting a secondary replat of Lot 9, Legacy Preserve, Phase 2 and primary plat approval of Lot 13, Legacy Preserve, Phase 2.

Members of the Whitley County Planning Commission,

Please consider below comments with regards to Petition #20-W-SUBD-4.

1. Consider a setback distance between Lot 10, and the proposed 50' entrance access for Lot 13 to address safety, privacy and environmental protection.

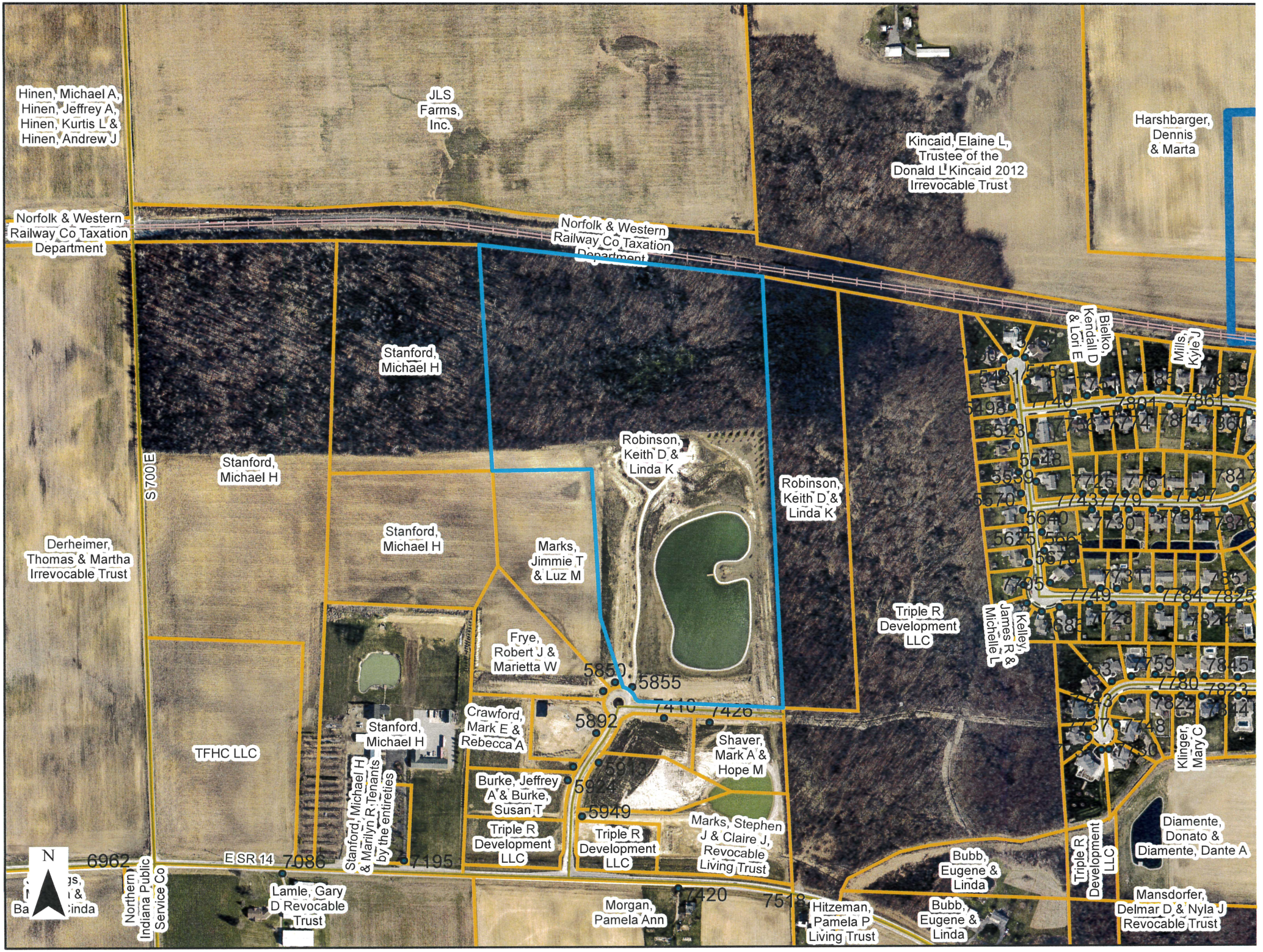
    a. Currently it appears for the draft replat the 50' entrance is located adjacent to the property line with no buffer area.
    b. Currently a large amount of water drains between Lots 10 and the current Lot 9 flowing in the direction of the sub division cul-de-sac. Maintaining a setback distance will provide a plan to mitigate additional water drainage onto Lot 10 from the proposed Lot 13 entrance.

2. Review the buildable area within the proposed LOT 13 with consideration of the 150' Statutory Right of Way for the Watson N Regulated tile drain.

Respectively
Adjacent Lot 10 Property Owner

Jimmie and Luz Marks
1319 Timberlake Trail
Fort Wayne IN 46804
260-615-6712 c

RECEIVED
FEB 19 2020


Hinen, Michael A, Hinen, Jeffrey A, Hinen, Kurtis L & Hinen, Andrew J
JLS Farms, Inc.
Kincaid, Elaine L, Trustee of the Donald L Kincaid 2012 Irrevocable Trust
Harshbarger, Dennis & Marta
Norfolk & Western Railway Co Taxation Department
Norfolk & Western Railway Co Taxation Department
Bielko, Kendall D & Lori E
Mills, Kyle J
Stanford, Michael H
Robinson, Keith D & Linda K
Robinson, Keith D & Linda K
Stanford, Michael H
S 700 E
Stanford, Michael H
Derheimer, Thomas & Martha Irrevocable Trust
Marks, Jimmie T & Luz M
Triple R Development LLC
Kelley, James R & Michelle L
Frye, Robert J & Marietta W
5850
5855
7410
7426
5892
Crawford, Mark E & Rebecca A
Stanford, Michael H
TFHC LLC
Shaver, Mark A & Hope M
Klinger, Mary C
Burke, Jeffrey A & Burke, Susan T
5924
5949
Stanford, Michael H & Marilyn R Tenants by the entireties
Triple R Development LLC
Triple R Development LLC
Marks, Stephen J & Claire J, Revocable Living Trust
Diamente, Donato & Diamente, Dante A
N
6962
E SR 14
7086
7195
Northern Indiana Public Service Co
Lamle, Gary D Revocable Trust
Morgan, Pamela Ann
7420
7518
Hitzeman, Pamela P Living Trust
Bubb, Eugene & Linda
Bubb, Eugene & Linda
Triple R Development LLC
Mansdorfer, Delmar D & Nyla J Revocable Trust